THE BENGAL CODE,

in Four Volumes:

CONTAINING

The Regulations, Ordinance and Local Acts in force in the Presidency of Fort William in Bengal;

WITH

Tables and Lists, Notes as to Scheduled Districts and De-Regulationised Tracts, and Notifications declaring Enactments in force in, or extending Enactments to, such Districts and Tracts,

and a Full Index.

FOURTH EDITION.

EDITED BY

F. G. WIGLEY, c. I. E.,

Of the inner Temple, Barrister-at-Law, Late Secretary to the Bengal Legislative Council.

VOLUME II:

Bengal Acts, 1862 to 1890,

(Edited in part by A. W. Watson, I.C.S., Secretary to the Covt. of Bengal, Legislative Department.)



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THE BENGAL CODE.

VOLUME II.

BENGAL ACTS, 1862 TO 1890.

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PREFACE.

This, the second volume of the Bengal Code, contains such of the Bengal Acts of the years 1862 to 1890 as are now in force in the Presidency of Fort William in Bengal or in any part of that Presidency. The system followed in editing the volume is described in the Preface to Volume I of the Code.

F. G. WIGLEY.*

• It was arranged, when Mr. Wigley left India in April, 1913, that he should see the whole of this edition of the Bengal Co-le through the Press, as Volume I was then almost ready and he had made substantial progress in the preparation of Volume II,—having indeed passed a first proof of the same corrected as up to 31st December, 1912. Owing, however, to the engrossing nature of his duties at the India Office, Mr. Wigley has found it impossible to devote any time in England to the further editing of this Code and it has accordingly devolved upon his successor to undertake the duty. Considerable delay in the publication of Volumes II to IV has, in the circumstances, been unavoidable; but with a view to bringing them as much up to date as possible I have incorporated in them all changes (affecting Acts contained therein) which have resulted from legislation in the Imperial and Local Councils during 1913 and 1914, as also the necessary consequential foot-notes. I have to acknowledge the capable assistance rendered to me in this connection by Mr. M. Mukherji, Legal Assistant in the Bengal Legislative Department.

A. W. WATSON, I.C.S.,

Secy. to the Govt. of Bengal,

Megislative Department.

CALOUTTA,

The 21st September, 1914.

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUM

[With respect to the entry of repealing enactments in column 4 of this Table, the following has been the ordinary practice :-

- (1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered;
- (2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered: a repeal of the unrepealed portions of an enactment is treated as a total repeal;
- (3) partial repeals covered by later partial repeals have not been entered;
- (4) local repeals covered by later local repeals have not been entered;

...

(5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered.]

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
		Вк	NGAL ACTS.1	
1862	3	The Bengal Land-revenue Sales (Amendment) Act, 1862.	Short title given, Act 1 of 1903 S. 1 rep., Act 12 of 1873. Preamble and s. 2 rep. in pt., Act 1 of 1903. S. 3 and Sch. rep. in pt.— (in Western Bengal), Ben. Act 2 of 1906, s. 16 (4);	1
***	. 6	The Bengal Rent Act, 1862.	(in Eastern Bengal), E. B. and A. Act 1 of 1907, s. 16 (4). Short title given, Act 1 of 1903 Supplemented, Ben. Act 4 of 1867, s. 5. Ss. 5, 13 rep. in pt., Act 7 of 1870. (See next page.)	

¹ The expression "Ben. Act," or "Bengal Act," as used in this Code, means an Act made by the Lisatemant-Governor of Bengal in Conneil or the Governor of Fort William in Bengal in Conneil as the case may be—ef. the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 8, cl. (6), it Vol. III of this Code.

3 Ben. Act 2 of 1906 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6 Ben. IV.

3 E. B. and A. Act 1 of 1907 has been extended to Western Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. II

5	. 4	3	2	.455
Page	How repealed or otherwise affected in Bengal by legislation.	Short title.	No.	ear.
·	Al. Acts—contil.	Beng		
	Rep. (in Eastern Bengal and locally in Western Bengal), Act 8 of 1885.	The Bengal Rent Act, 1862—contd	6	862
	8. 1 rep., ss. 2, 3, 8, 12, 14, 16, 17, 18, 21, Schs. A and B, rep. in pt., s. 14 am., Act 1 of 1903.			
15	Short title given, Act 1 of 1903	The Bengul Land-revenue Resumption Act,	7	,,
	8. 1 rep., Act 12 of 1873.	1862.		
	Ss. 3, 4 rep., Act 16 of 1874.		!	
17	Short title given, Act 1 of 1903	The Bengal Districts Act, 1864.	4	864
21	S. 19 rep., Act 12 of 1873	The Canals Act, 1864	5	•1
	Preamble and so. 1, 2, 3 rep. in pt., s. 17 and Sch. rep., Act 1 of 1903.			
29	Amended as to jurisdiction of Magis- trates and references to Police Acts, Ben. Act 1 of 1873.	The Salt Act, 1864	7	**
	Se. 2, 42, and Sch. rep., Act 12 of 1873.			
	8. 9 rep., Act 12 of 1882.			
	Ss. 3, 40 rep. in pt., NM. 85, 36, rep, Act 1 of 1903.			
39	Short title given, Aut 1 of 1903	The Bengal Prevention of Inoculation Act,	4	1865
	S. 4 rep. in pt., Act 1 of 1903.	1865.		
43	Short title given, Act 1 of 1903.	The Rengal Municipal (Slaughter - houses	7	
	Title, preamble and s. 8 rep. in pt s. 1 am., Act 1 of 1903.	and Meat-marketa) Act, 1865.		
47	Short title given, Act 1 of 1908	The Bengal Reut Re- covery (Under-	8	
	Sa. 2, 18 rep., Act 12 of 1873.	tenures) Act, 1865.		

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Year.	No.	Short title.	. How repealed or otherwise affected in Bengal by legislation.	Page.
		Benga	Al. AOTo—conid.	
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		Police Act, 1866.	Ss. 25 to 30, 32 rep., Ben. Act 2 of 1867, s. 17.	
			S. 40 (16) rep., Ben. Act 1 of 1869, n. 8.	
			S. 49 rep., Ben. Act 1 of 1874.	
			S. 41 am., Ben. Act 2 of 1886, s. 2.	
			S. 11 rep., Ben. Act 1 of 1890, s. 3.	
			Sm. 41A, 43A ins., Ben. Act 2 of 1895.	
			Su. 31, 52 rep., n. 51 rep. in pt., Act 1 of 1903.	
			S. 10 rep., Ben. Act 6 of 1905.	
			8. 17 rep., new ss. 17, 17A, 17B, 17C ins., ss. 39, 40 (13) am., Ben. Act 3 of 1907.	
			Ss. 2, 16, 40 rep. in pt., new ss. 4A, 8A, 8B, 8C, 8D, 15A, 15B, 33A, 39, 39A, 39B, 39C, 40A, 47A, 47B, 47C, 49A, 49B, 49C ins., ss. 6, 35 rep., ss. 19, 33, 38, 40, 43, 45, 46, 51 and appended Form am., s. 37 rep. in pt. and am., Ben. Act 3 of 1910.	
			S. 51 rep. in pt., Ben. Act 4 of 1913.	
	3	The Bengal Legislative Council (Witnesses)	Short title given, Act 1 of 1903	81
		Act, 1866.	S. 6 rep. in pt., Act 1 of 1903.	
			"Governor of Fort William in Bengal," substituted for references to "Lieutenant-Governor" and "Lieutenant-Governor of Bengal" Ben. Act 1 of 1914.	•
	4	The Calcutta Police Act, 1866.	S. 52 rep., Ben. Act 2 of 1867, s. 17.	89
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1866	4	The Calcutta Police Act, 1866—contd	S. 67 rep., Ben. Act 1 of 1869, s. 8.	
		1000 00000	S. 2 rep., Act 12 of 1873.	
			S. 103 rep., Act 12 of 1875.	•
	Ì		S. 40 am., Ben. Act 2 of 1876, s. 12.	
			Ss. 22 to 24, 26 to 28, 30, 31, 69, 73, 82 to 94, 96 to 98 rep., s. 79 rep. in pt., Act 4 of 1877.	
			Ss. 63 to 65 rep., Ben. Act 4 of 1879.	
			S. 68 am., s. 68A ins., Ben. Act 2 of 1886.	
		1	S. 17 rep., Ben. Act 1 of 1890, s. 3.	
			Ss. 68B, 72A ins., Ben. Act 2 of 1895.	
		-	S. 3 am., Ben. Act 3 of 1897.	
			Se. 3, 77 rep. in pt., ss. 25, 33, 95 am., Form B in Sch. rep., Act 1 of 1903.	
			S. 16 rep., Ben. Act 6 of 1905.	
			S. 43 rep., now ss. 43, 43A, 43B, 43C ins., ss. 46, 66 (15), 80 am., s 51 rep. in pt. and am., Ben. Act 3 of 1907.	
			Sa. 3, 13, 29, 36, 61, 66, 72, 76, 77, 79, Sch. am., ss. 8, 82, 66, 70, 71 rep. in pt., new ss. 10A, 13A, 13B, 13C, 14A, 21A, 54A, 62, 62A, 62B, 62C, 70A, 78A, 80A, 80B, 80C, 100, 101, 102A, 102B, 102C ins., ss. 12, 58 rep. s. 60 rep. in pt. and am., Ben. Act 3 of 1910.	
			S. 3 am., temporarily, Ordinance 1 of 1912 (now spent).	
			S. 3 am., new s. 50A, ins., Ben. Act 4 of 1913.	
	4 7	The Bengal Embank- ment Act, 1866.	Short title given, Act 1 of 1908	127
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	3	The Bengal Ports Act,	Short title given, Act 1 of 1903	143
		1867.	S. 20 rep., Act 12 of 1873.	•
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1868	3	The Bengal Land-reve-	Short title given, Act 1 of 1903	151
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			Ss. 1, 2, 6 rep. in pt., ss. 15 to 28 rep., Ben. Act 7 of 1880.	3 3
:			Supplemented, Ben. Act 1 of 1895.	
		,	Se. 3, 4 rep. in pt., s. 9, Schs. A, B, C, D rep., Act r of 1903.	

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
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1869	1	The Bengal Cruelty to Animals Act, 1869.	Short title given, Act 1 of 1903	165
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	1		Se. 1, 5 am., ss. 5A, 5B, 5C ins., Ben. Act 3 of 1900.	
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1870	6	The Village Chaukidari Act, 1870.	Ss. 2, 21, 26 am., other ss. supplemented, Ben. Act I of 1871.	175
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",	9	The Howrah Bridge Act, 1871.	Supplemented, Ben. Act 3 of 1880	217
		100, 11111.	Se. 3, 4 am., Ben. Act 8 of 1888.	
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"	4	The Bengal Births and 1 Naths Registration Act, 1873.	Short title given, Act 1 of 1903 Supplemented, Ben. Act 3 of 1884, Pt. XI.	231
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1875	5	The Bengal Survey Act, 1875.	S. 57 rep. in pt., Ben. Act 7 of 1880.	275
			8. 1 rep. iu pt., Act 1 of 1903.	
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		1876.	Rep. (except в. 12), Ben. Act 7 of 1878.	,	
	3	The Bengal Irrigation Act, 1876.	Ss. 42, 73, 85 rep. in pt., Ben. Act 7 of 1880.	313	
			S. 2. Sch. A rep., s. 95 am., Act 1 of 1903.		
	7	The Land Registra-	S. 55 am., Ben. Act 5 of 1878	345	
		tion Act, 1876.	S. 82 rep. in pt., Ben. Act 7 of 1880.		
		,	S. 1 rep in pt., s. 2, Sch. rep., Act 1 of 1903.	•	
			Ss. 3, 13, 15, 24, 28, 30, 31, 53, 64, 70, 77, 83 am., ss. 5, 23 rep. in pt., ss. 19A, 19B, 53A, 74A ins., s. 25 rep.—		
			(in Western Bengal), Ben. Act 2 of 1906; 1		
			(in Eastern Bengal), E. B. & A. Act 1 of 1907.		
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			(in Western Bengal), Ben. Act 2 of 1906;		
			(in Eastern Bengal), E. B. & A. Act 1 of 1907.		
			S. 30 (c) rep. (in Eastern Bengal), E. B. & A. Act 1 of 1907.2		
			S. 31 rep. in pt. and am., Ben. Act 1 of 1914.		
1878	5	gistration (Amend-	Short title given, Act 1 of 1903	881	
	i	ment) Act, 1878.	S. 2 rep., Act 1 of 1903.		

¹ Ben, Act 2 of 1906 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), z. 6, a E. B. & A. Act 1 of 1907 has been extended to Western Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), z. 4, Sch. II.

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page:
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1879	2	The Puri Lodging- house (Extension)	Short title given, Act 1 of 1908	383
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			S. 3 rep. in pt. (in Western Bengal), Ben. Act 3 of 1908.	
	3 The Bengal Stean boilers and Prime		Short title given, Act 1 of 1903	387
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	6	The Darjeeling Steam Tramway Act.	S. 1 rep. in pt., Act 1 of 1903	391
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		ысшені Асі, 1679.	Rep. (in Eastern Bengal and locally in Western Bengal), Act 8 of 1885.	
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			Se. 9, 56 rep. in pt., ss. 10A to 10D, 13A, 34A, 59A, 60B, 64A ins., s. 62 rep.—	
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			S. 50 am.—		
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			(in Eastern Bengal), E. B. and A. Act 1 of 1911.		
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			Preamble and s. 1 am., s. 2 am. and rep. in pt., s. 33 supplemented, Ben. Act 2 of 1890.		
			Ss. 2, 3 am. and rep. in pt., locally, ss. 4 to 8, 10, 13A, 15, 16, 19, 28, 29A, 29B, 33, Schs. A, B, C, E am. (locally, in Western Bengal), Ben. Act 2 of 1911.		
**	6	The Bengal Drainage Act, 1880.	Rep. in pt. and am., Ben. Act 2 of 1902.	491	
(S. 1 rep. in pt., ss. 60 to 63 rep., Act 1 of 1903	•	

¹ Ben. Act 2 of 1999 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Boh. I.
2 E. B. and A. Act 1 of 1911 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Boh. Act 2 of 1911 has been extended to Eastern Bengal by the Bengal Laws Act, 1924 (Ben. Act 1 of 1924), a. 8, Boh. I.

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1	2	8	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation,	Page.
		Beng	AL ACTS—conid.	
1880	9	The Cess Act, 1880.	Ss. 9, 10, 18, 42(1), 48, 44, 45, 46(5), 168, Schs. A and C am., s. 40A ins., Ben. Act 2 of 1881.	529
			Ss. 64A, 64B ins., Act 7 of 1881.	
			Ss. 4, 38, 82, 88, 98, 109 am., ss. 9, 40, 108 rep. in pt., ss. 110 to 181 and s. 182 (a), (b), (c), (c), (g) and (h) rep., Ben. Act 3 of 1885, s. 2 (except in the Darjeeling District).	
			S. 1 rep. in pt., s. 29, Example B, am., Act 1 of 1903.	
			S. 109 am. (in Western Bengal, except the Darjeeling District), Ben. Act 5 of 1908, s. 64.	
			S. 4 rep. in pt. aud am., ss. 12, 14, 15, 16, 22, 23, 36, 37, 41, 44, 46, 49, 54, 57, 102, 104, 105, 112, 113 am., Ch. IIA, ss. 52A, 72A, 91A ins., s. 94 rep. in pt. (in Western Beugal), Ben. Act 4 of 1910.	
1881	2	The Bengal Cess (Amendment No. 2) Act, 1881.	Short title given, Act 1 of 1908	619
"	3	The Bengal Court of Wards (Amendment)	Short title given, Act 1 of 1903	623
		Act, 1881.	S. 3 rep. in pt., Act 10 of 1892, s. 9.	
			S. 1 rep. in pt., s. 2 rep., Act 5 of 1897.	
	5	The Calcutta Burial Board's 2 Act, 1881.	S. 1 rep. in pt., Act 1 of 1908	627
1882	2	The Embankment Act, 1882.	S. 16 rep., s. 17 rep. in pt., Act 9 of 1890.	685
			Se. 1, 2, 46 rep. in pt., Act 1 of 1908.	
1888	3	The Bengal Tramways Act, 1883.	S. 1 rep. in pt., Act 1 of 1903	• 667
			8. 41 am., Ben. Act 1 of 1904.	

¹ Ben. Act 5 of 1906 has been extended to Eastern Bengal by the Bengal Laws Act, 4816 (Ben. Act 1 of 1914), s. 8, Sch. L.

8 Sic. Read Boards.

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CHBONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—const.

1	2.	8 🐇	4	5
Year,	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
		Brns	AL ACTS—contd.	
1883	5	The Darjeeling and Kurseong Municipal (Porters) Act, 1883.	Short title given, Act 1 of 1903	683
1884	1	The Puri Lodging- House (Extension) Act, 1884.	Short title given, Act 1 of 1903 S. 1 rep., Act 1 of 1903.	689
		,	Rep. (in Western Bengal), Ben. Act 3 of 1908.	
1884	2	The Calcutta Tram- ways (Amendment)	Short title given, Act 1 of 1903	691
		Act, 1884.	Preamble and нв. 3, 4 am., в. 1 гер. in pt., н. 2 гер., Act 1 of 1903.	
. "	3	The Bengal Municipal Act, 1884.	8. 251 am., ss. 251A to 251D ins., Ben. Act 3 of 1886.	709
			Sch. 2 rep. iu pt., Ben. Act 2 of 1888.	
		·	S. 261 rep. in pt., Ben. Act 1 of 1893, a. 46.	
			Ss. 2, 9, 14, 15, 17, 20, 22, 28, 24, 26, 27, 28, 30, 38, 68, 59 (a), 68, 82, 86, 89, 97, 98, 99, 101, 113, 114, 121, 125, 127, 186, 187, 199, 200, 208, 210, 212, 217 (4), 218 to 220, 236 to 242, 243, 261, 262, 270, 271, 273 (1), 279, 290, 807, 821, 322, 339, 350, 358, 365 and Sah. V am., a. 6, cl. (14A), ins., ss. 9A, 9B, 25A, cl. (14A), ins., ss. 9A, 9B, 25A, 26A, 26B, 27A, 29A, 37A to 37M, 66A, 97A, 111A, 141A, 147A, 199A, 210A, 228A, 242A, 256A, 256B, 27A, 29A, 37A to 37M, 349B, 350A, 351A ins., ss. 11, 12, 18, 327, 528 rep., ss. 46, 57, 76, 85, 87, 320, 351 rep. in pt., and an., ss. 116, 142 (c), 263, 294 rep. in pt., Beu. Act 4 of 1894.	
ţ		·	Sw. 15, 87L, 39, 42, 69, 70, 131, 142, 238 (1), 279, 321, 322 (2), 350, 351A am., ss. 69A, 69B, 141B, 147B ins., s. 141A rep. in pt., s. 147A rep. in pt. and am., Ben. Act 2 of 1896.	
			(See next page.)	

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—consid.

1	2	8		5	
Year.	No.	Short title,	How repealed or otherwise affected in Bengal by legislation.	Page.	
Bungal Acre-contd.					
1884	8	The Bengal Municipal	Ss. 87J, 219 am., Act 5 of 1897.		
		Act, 1884—contd.	In Howrah—rep. in pt., Ben. Act 3 of 1899, s. 642.		
		-	In Darjeeling—a. 6, cls. (20) to (35), added; se. 6A, 182A, 182B, 201A to 201G, 207A, 210B, 210C, 224A to 224C, 229A, 244A to 224C, 248A to 242E, 372A to 272E, 350B, 351B to 351H ins.; ss. 175 to 182 barred in certain cases; ss. 191, 201, 207, 220, 227, 228, 236 to 244, 350A am.; ss. 208, 232, 267, 270 (4), (5) rep.; ss. 218, 224, 229, 271, 272 (2), 273 (1) rep. in pt.; Schs. A to D added; Beu. Act 1 of 1900.	• -	
			8. 168 rep. in pt., Act 2 of 1901.		
,			Ss. 1, 2 rep. in pt., Act 1 of 1903. S. 66 (b) expld. (in Western Bengal), Ben. Act 2 of 1910, s. 2, 1		
			Rep., locally (in Western Bengal), Ben. Act. 5 of 1911, s. 147 (when and where notified).		
			Pt. XIB (ss. 349C to 349H), ins., Ben. Act of 1914.		
1885	1	The Bengal Ferries Act, 1885.	S. 18 rep. in pt., Act 2 of 1901	887	
2)	8	The Bengal Local Self- Government Act of 1885.	8. 45 and Soh. II am., Act 1 of 1903 8s. 1, 6, 25, 78, 103 rep. in pt.; ss. 5, 7, 10, 11, 13, 15, 17, 19, 22, 25 to 27, 29, 32, 33, 35, 36, 44, 48, 50, 52, 53, 56, 58 to 61, 63, 65, 67, 78, 82, 86, 91, 99 (and heading thereto), 100, 104 to 111, 114 to 119, 130 to 134, 138, 139, 142, 144, Soh. II, am.; ss. 16, 24, 34, 72 rep.; s. 18 rep. in pt. and am.; ss. 18A, 19A, 28A, 26A, 29A, 35A, 41A, 55A, 64A, 65A, 65B, 78A, 86A to 86M _c 88A, 99A, 118A to 118D ins. (in Western Bengal), Ben. Act 5 of 1908. 2	907	

² Section 2 of Ben. Act 3 of 1910 has been extended to Hastern Bengal by the Bengal Naws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

² Ben. Act 5 of 1906 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben Act 1 of 1914) s. 8, Sch. I.

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CHEONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—contd.

1	Τ	2	3	4	5
Year.	N	To.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
1885	1	3	The Bengal Local Sel Government Act		
			1885—contd.	and where notified). New s. 29B ins., ss. 64A, 138 am., ss. 9, 13, 117, 119C, rep. in pt., Bon. Act 1 of 1914.	
1886		1	The Bengal Village chaukidari (Amend ment) Act, 1886.		975
				Se. 2, 8 rep., Act 5 of 1897. S. 1 rep. in pt., Act 1 of 1903.	
11	2		The Calcutta and Suburban Police (Amendment) Act 1886.	8.112, 1200 1 01 1200	977
	8		The Bengal Municipal (Amendment) A c t, 1886.	8. 4 rep., Ben. Act 3 of 1910. Short title given, Act 1 of 1908 Rep. (as to Ben. Act 4 of 1876), Ben. Act 2 of 1888.	979
1887	1	7	he Calcutta Survey Act, 1887.	S. 1 rep., Act 1 of 1903. Declared applicable to Provincial Municipalities, Ben. Act 3 of 1884, s. 223A (ins. by Ben. Act 4 of 1894, s. 66).	983
	2		he Bengal Vaccin- stion (Amendment) Act, 1887.	S. 1 rep. in pt., Act 1 of 1903. Short title given, Act 1 of 1903 S. 1 rep. in pt. a. 8	989
1888	3	•	he Howrah Bridge Amendment Act, 1888.	8. 1 rep. in pt., s. 3 am., Act 5 of 1897. 8. 2 rep. in pt., Act 1 of 1903	991

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—concid.

, 1	2	8	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	
	_	Benga	AL ACTS—concld.	
1889	2	The Private Fisheries Protection Act, 1889.	Supplemented, Act 4 of 1897	998
"	4	The Calcutta Burisl Boards Act, 1889.	Short title given, Act 1 of 1903	997
			S. 1 rep., Act 1 of 1903.	
			Ss. 14 to 19 substituted and Sch. II rep., Ben. Act 1 of 1918.	
1890	2	The Bengal Vaccin-	Short title given, Act 1 of 1903	1003
		ation (Amendment) Act, 1890.	Ss. 1, 4 (3) rep., ss. 2, 8 am., Act 1 of 1903.	
	3	The Calcutta Port Act, 1890.	S. 113 (1) am., Ben. Act 2 of 1894	1018
			Ss. 13 (2), 90, 109, 113 (2), 114 (1), 115 an., ss. 32A, 104A, 122A, 122B, 122C ins., s. 104 rep. in pt., ss. 106, 108 rep. in pt. and am., Ben. Act 4 of 1895.	
			Ss. 35, 105, 116, 126 am., ss. 66A to 66N ins., Ben. Act 6 of 1895.	
			Ss. 112, 113 (2) am., Ben. Act 2 of 1898.	,
			Se. 30, 34, 94 am., Act 1 of 1903.	
			Ss. 5, 6 (1), 35, 106 am., s. 105 A ins., Ben. Act 4 of 1905.	
			Ss. 19, 20, 22, 24 (1), 91(1), 108 am., s. 24A ins., s. 110, Sch. II rep., Sch. III renumbered as Sch. II, Ben. Act 2 of 1907.	
			S. 20A ins., Ben. Act 1 af 1908.	
	,		Ss. 30, 31, 33, 34 (1) am., Ben. Act 1 of 1910.	•
			Ss. 49, 50, 73 am., Ben. Act 1 of 1912.	•

THE BENGAL CODE.

VOLUME II. ----

BENGAL ACTS OF 1862 TO 1890, IN FORCE IN THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

BENGAL ACT 3 OF 1862

[THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT, 18627.1

(23rd April, 1862.)

An Act to amend Act 11 of 1859 (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.")

Whereas it is expedient to extend the period allowed for the registry of * * tenures * * * and to alter the scale of fees on certain applications for the opening of separate accounts for shares of entire estates, for deposit of money or Government securities, and for registry of under-tenures and farms: It is enacted as follows:-

1. Repeal of ss. 45 and 59 of the Benyal Land-revenue Sales Act, 1859 (11 of 1859). Rep. by the Repealing Act, 1873 (12 of 1873). 2.

18HORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 1—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, Sch. II.

LOCAL EXTENT.—Since this Act is (see s. 4, post, p 2) to be taken and read as part of the Rengal Land-revenue Sales Act, 1809 (11 of 1859), it has the same local extent as that Act—see Vol. 1 of this Code.

The Act has been extended by position under the Nebeduled Districts Act. 1874 (14 of

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 5, to the following Scheduled Districts, namely:—

the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV; and the Darjeeling District—see ib.

the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV; and the Darjeeling District—see ib.

twill be noticed that this Act has not, like the Bengal Land-revenue Sales Act, 1859 (11 of 1869), been expressly declared by notification under the Scheduled Districts Act, 1874, to be in force in West Jalpaiguri.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. 1 of this Code.

The Bengal Land-revenue Sales Act, 1888. It is printed in Vol. 1 of this Code.

This includes the person Fresidency of fort William in Bengal and other territory.

The word "under," which was repealed by the Repealing and Amending Act, 1908 (1 of 1902) is omitted.

4 The word "under," which was repealed by the Repealing and Amending Act, 1906 (1 et 1908), is omitted.

5 The words "and farms," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

6 The first two paragraphs of a. 2, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. They ran as follows:—

"Applications under sections 40, 48 and 44 of Act 11 of 1859, for registry of tenures and farms created before the passing of Act II of 1859, must be made within three years of the passing of this Act.

Applications for the registry of tenures existing at the time of the passing of this Act, are created after the passing of Act II of 1859, must be made within three months of the passing of this Act."

2 THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT, 1862. [Bon. Act 3 of 1962.]

(Secs. 3, 4.—Schedule of fees.)

Idmitation.

Applications for the registry of tenures created after the passing of this Act must be made within three months of the date of the deed constituting the tenure.

Fees to be paid at rates mentioned in Rebedule. 3. The Collector on the part of the Government shall be entitled to demand from applicants under * *1 sections 15 and 16, sections 40, 43 and 44, of Act 11 of 1859, fees not exceeding the rates specified in the Schedule to this Act annexed, which Schedule shall be taken as part of this Act; and applications under the said sections shall not be received unless the said fees are tendered therewith.

4. This Act shall be taken and read as part of the said Act

Act 11 of 18592.

SCHEDULE OF FEES.

1. (Filing an application under section 10 or section 11 of Act 11 of 1859 for opening a separate account for a share of an entire estate.)—Rep. in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (4), and in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendm nt) Act, 1907 (E. B. and A. Act 1 of 1907), s. 16 (4). The former Act has been repealed by the Rengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II

2. For filing an application—

for a deposit of money or Government securities under section 15 of the said Act—half per cent. of the amount deposited;

for any interest on Government securities so deposited, drawn by the Collector—half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under section 16 of the said Act—half per cent. of the amount withdrawn.

3. For filing an application, under section 40, 43 or 44 of the said Act, for the registration of an under-tenure or farm—

if the annual rent of the under-tenure or farm de not exceed 1,000 rupees—at the rate of five per cent. on the rent:

if the annual rent of the under-tenure or farm exceed 1,000 rupees—at the above rate up to 1,000 rupees, and at one per cent. on all above that amount.

¹ The words and figures "sections 10 and 11," were repealed, in Western Sengal, by the Beaust-Land Registration (Amendment) Act, 1906 (Sen. Act 2 of 1906), a. 16 (4), and in Seatern Sengal by the Seatern Sengal and Assam Land Registration (Amendment) Act, 1907 (E. S. A. Act 2 of 1907), a. 16 (4), and are omitted. The former Act has been repealed by the Sengal Laws Act, 1914 (Sen. Act 1 of 1914), s. 6, Seh. IV, and the latter Act has bless extended to Western Sengal by the same Act, s. 4, Seh. II

2 fan Sangal Landsrevenue Sales Act, 1859. It is printed in Vol. 2 of this Code.

BENGAL ACT 6 OF 1862

(THE BENGAL RENT ACT, 1862).

CONTENTS.

PREAMBLE.

SECTION.

- (Repealed.)
 When Court may award to plaintiff additional damages not exceeding twenty five per cent.
- 3. Court may award to defendant compensation not exceeding twenty-five per cent. on amount improperly sued for.
- Under-tenant or raiyat may, after tender, pay into Court, without suit brought, what he admits to be due to samindar, etc. Payment into Court to have effect of payment to samindar, or person entitled.
- 5. Proceedings on payment into Court.

Payment to creditor.

6. Limitation of suit for further balance.

7. After suit brought, defendant may pay into Court, without costs, money tendered before.

Costs if plaintiff goes on with the suit.

- 8. If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum. Costs if plaintiff goes on with the suit.
- 10. Measurement of lands, where it cannot be ascertained who are the persons liable to pay rent.

Survey and measurement of lands.

- Measurements to be by pargana pole.
 Form of plaint in suits for arrears of rent.
 Order under section 58 of Act 10 of 1859 to set saide judgment to be final, but rejection of application to set it aside appealable. Fees to agents and mukhtars.
- Language of Collector's judgment.

16. Attachment before judgment.

- 17. Execution to issue at time of decree on oral application; afterwards on appli-
- cation in writing.

 18. If person is arrested under section 145 of Act 10 of 1859, case to be disposed of at once.

- Deputy Collectors' powers.
 In what Court suits are to be instituted.
 This Act to be read with Act 10 of 1859.

Schedule A. Schedule B.

BENGAL ACT 6 OF 1862

(THE BENGAL RENT ACT, 1862).1

(14th May, 1862.)

An Act to amend Act 10 of 1859 to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal³).

Whereas it is expedient to amend Act 10 of 1859, so far as Preamble. the same relates to the Provinces subject to the Government of Bengal: It is enacted as follows:—

1. (Repeal of certain sections of Act 10 of 1859). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known

as the Amending Act. 1903—vide Act 10 of 1914, Sch. II.

2. In any suit for rent under Act 10 of 1859, if When Court it shall appear to the Court that the defendant has without plaintiff addireasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution consideration of the suit tendered such amount to the plaintiff or his twenty-five of the suit tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per cent. on the amount of rent decreed, as the Court may think fit.

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve per cent. per annum from the date of decree until

¹ BEIGHT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—Vide Act 10 of 1914, Sch. II.

LEGILATURE PAPERS.—The Bill (without any Statement of Objects and Reasons) was published in the Calcutta Gazette, 1862, page 602; for Report of Select Committee, see ibid,

Institutive Papers.—The Shift (without say) Statement of Objects and Research was published in the Calcutta Carsette, 1862, page 502; for Report of Select Committee, see ibid, page 1819.

LOCAL RETRET.—Since this Act is (see section 21, post, page 12) to be "read with and taken as part of" Act 10 of 1859, it applied originally, like the laster Act, to the whole of the former Province of Bengal. It has, however, been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 3 (2) (printed in Vol. 1 of this Code) in the whole of the former Province of Bengal except "the town of Calcutta, the Division of Orisas and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to the Jalpsiguri District, the repeal has taken effect in that District.

The suplication of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 3900 (1 of 1990), section 4 (2), printed in Vol. 1 of this Code.

The wally portion of the present Presidency of Fort William in Bengal in which Ben. Act 8 of 1883 appears to be effectually in force at the present time is the Darjeeling District.

Apprairs.—As to the appointment of officers to hear appeals under this Act, see the Bengal Rent (Appeals) Act, 1867 (Ben. Act 4 of 1867), s. 5, post, p. 149.

The includes the present Presidency of Fort William in Bengal, and other territory.

The sincludes the present Presidency of Fort William in Bengal, and other territory.

(Secs. 3-5.)

payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act 10 of 1859 1 are recoverable.

Court may defendant compensation nty-fi∮

on amount

Under-tenant or raiset may, after tender, pay into Court, without suit rought, what be due to

Payment into Court to have effect of payment to person en-titled.

Proceedings on payment

* for rent under Act 10 of 1859, 1 if 3. In any suit it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five per cent. on the whole amount claimed by the plaintiff, as the Court may think fit; and such sum, with interest at the rate of twelve per cent. per annum until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act 10 of 1859 are recoverable.

4. If any under-tenant or raiyat shall, at the mal cutcherry for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zamindar or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or raiyat, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the zamindar or other person aforesaid.

And such deposit shall, so far as the under-tenant or raigat and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or raigat of the amount deposited, to such zamindar or other person.

5. The Collector shall receive such deposit on the application of the under-tenant or raiyat, or his agent, made in writing * * *, and on the under-tenant or raiyat, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in the Schedule A hereto annexed; and the Collector shall give a receipt for the same.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time

¹ The Bengal Bent Act, 1859. It is printed in Vol. I of this Code.

*Formal words in s. 3, which were repealed by the Repealing and Amending Act, 1902 (1 of 1903), are omitted.

Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted. tted.
4 See the Indian Penal Code (Act 45 of 1860), Chapter XI, in General Acts, 1884-67, Rd. 1899,

(Secs. 6-8.)

being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his naib, gumashta or other agent; and in the absence of any such agent it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the mal cutcherry for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited.

If the person to whom such notice is issued, or his duly Payment to authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over

to him.

6. Whenever a deposit shall have been made under the Limitation of provisions of this Act, no suit shall be brought against the suit for turperson making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned.

7. The defendant in any suit under this Act or under Act Atter suit 10 of 1859 instituted after the passing of this Act may, if brought, defeadant may he have duly tendered the same to the plaintiff before the payinto institution of the suit, pay into Court such sum of money as he out costs. shall consider to be due to the plaintiff without paying in any money costs incurred by the plaintiff up to the time of such payment, before. and such sum shall be immediately paid out of Court to the plaintiff.

If after such payment the plaintiff elects to proceed in the Costs if suit, and ultimately recovers no further sum than shall have on with the been paid into Court, the plaintiff shall be charged with the sait. whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole. costs of the suit.

The defendant in any suit under this Act or under Act If no previous may, without having made any tender before been made 10 of 18591 • action brought, pay into Court such sum of money as he shall defe consider to be due to the plaintiff, together with the costs (to Court what be fixed by the Court, if necessary, as of a suit originally be due with instituted for the amount so paid into Court) incurred by the costs on the plaintiff up to the time of such payment, and such sum shall the plaintiff up to the time of such payment, and such sum shail immediately be paid out of Court to the plaintiff.

The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

Tormal words which were repeated by the Benealing and Amending Act. 1808 /1 No to combined.

(Secs. 9, 10.)

Costs if plaintiff goes on with the built.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree.

Survey and measurement of lands. 9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the compress of the lands.

occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or right, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to inquire into the case in the manner provided for suits under Act 10 of 1859, and shall pass a decision either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or raiyat.

If any under-tenant or raiyat after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings

held in his absence.

Measuremen of lands, where it cannot be ascertained who are the persons liabil to pay rent. 10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid; and the Collector thereupon, and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same; or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures, and under tenures, the rates of rent

¹ The Court-fee on an application under a 9 is five rupees—see the Court-fees Act, 1879 (7 of 1879), Sch. II, Art. 18, in General Acts, 1868-78, Ed. 1809, p. 146;
¹ The Bengal Bent Act, 1869. It is printed in Vol. 1 of this Code

(Secs. 11-13.)

payable in respect of such lands, and the persons by whom respectively the rents are payable.

The provisions of section 67 of Act 10 of 1859 shall apply. to any proceeding of the Collector instituted under this section.

If after due inquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may declare the same be have lapsed to the party on whose petition he has made the inquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

Save as aforesaid, the decision of the Collector on all matters inquired into and determined by him under this or the last preceding section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court.

Such appeals shall lie to the Zila Judge or to the Sadar Court, subject to the provisions and conditions contained in sections 160 and 161 of Act 10 of 1859.1

11. All measurements made under this Act shall be made to be by the standard pole of measurement of the pargana in which pargana the land is situated.

12. In any suit * 2 for the recovery of an arrear of Form of rent, the statement shall specify the name of the village and suits for estate and of the pargana or other local division in which the arrears of land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

If the arrear is alleged to be due from any raiyat, the statement shall further specify the quantity of land, and, where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

13. In all cases in which the Collector shall pass an order order and 13. In all cases in which the Collector snau pass an order under section 58 of Act 10 of 1859 1 for actting aside a judgment, act 10 at 185 the order shall be final; but in all appealable cases in which the Collector shall reject the application an appeal shall lie to be final, from the order of rejection to the tribunal to which the final of application in the suit would be appealable:

The Bengal Rent Act, 1869. It is printed in Vol. I of this Code.
Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1868), are

(Secs. 14-17.)

Fees to agents and mukhidra. Provided that the appeal pe preferred within the time allowed for an appeal from such final decision.

14. • • • • In awarding costs to either party in any suit • • ander [Act 10 of 1859] or under this Act, it shall be competent for the Collector to award to such party, on account of the fees of any agent or mukhtar employed by him, such a sum, not exceeding the rate of fee chargeable under the provisions of [section 27 of the Legal Practitioners Act, 18 of 1879 1879,] for pleaders in the Civil Courts, as the Collector may direct.

Language of Collector's judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act 10 of 1859 in open Court,

The judgment shall be written in the vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced:

Provided that, if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attachment before jadgment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act 8 of 1859 (for simplifying the Procedure of the Courts of the Civil Judicature not established by Roy a Charter) are hereby extended to all suits under this Act or Act 10 of 1859.8

Execution to issue at time of decree on oral application; afterwards on application in writing.

17. Process of execution in any suit * * under this Act or under Act 10 of 1859 may be issued against either the persons or the property of a judgment debtor, but process shall not be issued simultaneously against both person and

property.

It may be issued on the oral application of the judgmentcreditor, his agent or mukhtar, made at the time the judgment is pronounced or thereafter upon the written application of the judgment-creditor, his agent or mukhtar presented to the Court by which the judgment was given.

¹ Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are

omitted.

A repealing clause, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), as omitted.

Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1908), and that

she omitted.

4 The words and figures "Act 10 of 1889" were substituted for the words "the raid Act" by the Bepealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

5 This reference was substituted for the reference "section 78th Act 10 1846" by the Bepealing and Amending Act, 1908 (1 of 1903), Sch. II.—see Vol. I of this Code. Act 18 of 1879 is printed in the General Acts, 1879-86, Ed. 1909, p. 19.

5 The Bengal Rent Act, 1869. It is printed in Vol. I of this Code.

7 Act 8 of 1869 was repealed and re-enacted by Act 10 of 1877. The present Code of Civil Procedure is Act 5 of 1908, and this reference should now be taken to be made to es. 25 and 1804 (4) Code—see s. 186 thereof, in General Acts, 1904-09, Ed 1909, p. 184.

[ADECS. 15, 48]

Process of execution against the person or moveable property of a debtor shall be in the Form E or the Form F contained in the Schedule to Act 10 of 1859, or in a form as nearly resembling those forms as the circumstances of the case may admit.

18. If any person shall * ** be arrested under section arrested under section arrested under section 145 of the said Act 10 of 1859, he shall be brought before the section 145 Collector with all convenient speed, and the Collector shall of Act 10 of 10 to 10 t

If the case cannot be at once heard and determined, the stone Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is

In default of such security the person arrested shall be com-

mitted to the civil jail till the case is heard.

19. All the powers vested in the Collector by any of the Deputy Cell. sections of this Act or of Act 10 of 1859 may be exercised by powers. any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any sub-division of a district, or who is specially authorized by Government to receive such cases; and all applications and reports allowed or required by the said Act 10 of 1859 or by this Act to be made to the Collector may be made

1 These forms have not been reprinted with Act 10 of 1859, because they were repealed by the Repealing and Amending Act, 1891 (12 of 1891). The present reference was, however, sayed by section 8 of that Act. The forms are as follow:—

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff, C. D., Defendant.

To the Nuzir of the Court of the Collector of Whereas the said C. D. was directed by a decree of this Court, under date the day of 18, to pay to A. B. the sum of and for costs of suit amounting to and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law. with according to law

FORM F

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff, C. D., Defendant.

To the Nasir of the Court of the Collector of

Whereas C. D. was directed by a decree of this Court, under date the

18 , to pay A. B. the sum of

ing to , and whereas the said C. D. has omitted to pay the same, you are keepby commanded to levy the said sum of

and the sum of this process, by binure and sale of such moveable property of the said C. D. as is described in the last annexed, and (if we list is fergalated, these words to be omitted) shall be pointed out to yeu by the judgment-receditor or his agent's and you are hereby ordered to sell such property of the said C. D., as is the said C. D. as it is a said C. D. as it is another as a said C. D. as i

(Secs. 20, 81.—Schedule 4.)

to any Deputy Collector having such local jurisdiction or such special authority as a foresaid.

In what Court suits are to be instituted.

20. Sults under this Act, or under Act 10 of 1859 shall be preferred in the revenue office of the district, or, when a subdivision of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office of the sub-division in which the cause of action shall have arisen, or, when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by Government to receive such suits, then in the office of such last-mentioned Deputy Collector:

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to

another Deputy Collector.

If the lands comprised in any taluk, farm or other tenure, or any lands held under one lease or engagement, at or one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district or sub-division or local limits in which the greater part of such lands is situate shall be held to be the district or sub-division or local limits in which the cause of action has arisen; and, if any question shall be raised respecting the district or sub-division or local limits within which the greater part of the lands is situate, the Board of Revenue or, if all the lands be situate in one district, the Collector of the district, shall decide the question; and such decision shall be conclusive on the point of jurisdiction.

read with Act 10 of 1859.

21. This Act shall be read with, and taken as part of, Act 10 of 1859.1

†SCHEDULE A.

I, A. B., of, etc., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F. at his mal cutcherry (or at place where the rent of the lands at held or cultivated by me under or from the said E. F. are usually payable, *1 rupees of the sum of as and for the whole amount · due from me in respect of the rent of the said lands from the † If this declaration is made by an agent, it must be altered accordingly.

¹ The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

See now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918), in Vol. III of this Code.

8 Formal words which were repealed by the Repealing and Amending Act, 1969 (1 of 1908) are omitted. or the word when were repeated by the Repealing and Amending Act, 1909: (1 of 1908)

4 Sch A is referred to in s. 5, ans, p. 6.

The word "Company's," which was repealed by the Repealing and Amending Act, 190

(f of 1908), is omitted.

(Scholule B.)

month of to the month of e. I further declare that the said E. F. refused to accept the said sum so tendered (or to give mean receipt in full forthwith for the same). And I do declare that to the best of my belief the sum of so tendered, and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of to the month of to the said E. F. no further sum on account of the rent of the said lands.

†SCHEDULE B. *

Court of the Collector (or Deputy Collector) of Dated the day of To E. F., of, etc.

18 .

With reference to the within declaration you are hereby informed that the sum of "rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

† This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

The word "Company's", which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.
 Sch. B is referred to in s. 5, ante, p. 6.

BENGAL ACT 7 OF 1862

(THE BENGAL LAND-REVENUE RESUMPTION ACT, 1862).1

(7th May, 1862.)

An Act to repeal section 30 of Regulation 2, 1819' (for . modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands hald free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for whiche a sattlement has been made).

Whereas by section 30 of Regulation 2, 1819,2 it is Preamble. enacted that certain suits preferred in a Court of Judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred and disposed of exclusively in the ordinary Courts of Civil Judicature: It is enacted as follows:-

1. [Repeal of s. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819)]. Rep. by the Repealing Act, 1873 (12 of 1873).

2. All suits preferred by proprietors, farmers or taluk- Suits for dars to resume the revenue of any land held free of land held free assessment, as well as all suits preferred by individuals claim- of assessment assessment, as well as all suits preferred by individuals of the land exempt ing to hold land exempt from the payment of revenue, shall to hold be instituted, heard and determined in and by the Courts of from revenue civil Judicature, like ordinary civil suits, and under the rules to be tried in Civil Courts. and subject to all the provisions contained in Act 8 of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter), and not otherwise.

3, 4. [Application of Act to pending-suits; saving of proceedings had under s. 30 of the Benyal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819) before passing of Act]. Rep. by the Repealing Act, 1874 (16 of 1874).

¹ SHORT TWILE.—This short title was given by the Repealing and Amending Act, 1902 (1 of 1903), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1902—eds Act 10 of 1914, Sch. II.

LOCAL RETEXEX.—Since this Act contains no "local extent" clause, it must be taken to extend to the whole of the former Province of Bengal; but its application is berred in the Chittagong Hill-tracts Regulation, 1900 (1 of 1800), e. 4 (2), printed in Vol. I of this Code.

The Bengal Land-Revenue Assessment (Resumed Lands) Regulation, 1819. It is printed in Vol. I of this Code.

Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877. The present Code of Civil Procedure is Act 8 of 1908, and this reference should now be taken to be made to be the Code—see a. 158 thereof, in General Acts, 1904-08, Ed. 1909, p. 184.

BENGAL ACT 4 OF 1864

(THE BENGAL DISTRICTS ACT, 1864). 1

(20th April, 1864.)

An Act to amend Act 21 of 1836.4

Whereas it is expedient to amend Act 21 of 18363; It is Preamble. enacted as follows:-

It shall be lawful for the Lieutenant-Governor of Bengal Lieutenant from time to time to alter the limits of existing zilas in airculanta any part of the provinces subject to the control of the said existing selection Lieutenant-Governor.

^{**} Short Title.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LOCAL EXPENT.—This Act applies to the whole of the former Province of Bengal—see the enacting clause; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

* The Bengal Districts Act, 1886. It is printed in Vol. I of this Code.

Act 10 of 1836 gives power to create new districts. Power to alter the limit of districts is given by the present Act, and power to alter the limit of Collectorship is given by the Bengal Land-revenue (Assistant Collectors) Regulation, 1821 (4 of 1821), s. 8 (1), in Vol. I of this Code. Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1829 (1 of 1839), s. 2, in Vol. I of this Code.

* Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

* For a list of orders made under this Act for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 5 OF 1864

(THE CANALS ACT, 1864).

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PREAMBLE.

Section.

- Interpretation.
 What navigable channels may be rendered subject to provisions of Act
 By whom navigable channels may be made.
- Mode of obtaining land for the purpose.
- 4. Bar of suit against Government.
 5. Tolls to be paid on lines of navigation subject to Act. Proviso.
- Lieutenant-Governor may fix and alter rates of tolls.
- Publication of rates of toll at every toll-house.

 Lieutenant-Governor to appoint persons to collect tolls, who may farm collection.
- Payment of tolls how enforced.
- Penalty for evasion of toll.
- Rules relating to lines of navigation.
 Publication of such rules.
- Publication of such rules.

 Appointment of supervisor with power to remove obstruction.

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 (Repealed.)

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 (Repealed.)

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- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.

SCHEDULE. (Repealed.)

BENGAL ACT 5 OF 1864

(THE CANALS ACT, 1864).1

(8th June, 1864.)

An Act to amend and consolidate the law relating to the collection of tolls on canals and other fines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal.2

Whereas it is expedient to amend and consolidate the law Preamble. relating to the collection of tolls on lines of navigation canals and 4, and to authorize the collection lines of navigation of tolls on such other lines of navigation as may hereafter be rendered subject to the provisions of this Act, and to provide for the construction and improvement of lines of navigation; It is enacted as follows:-

The following words shall have the several meanings Interpretahereby assigned to them, unless where a contrary intention, tion. shall appear from the context, that is to say :-

the word "vessel" shall include any ship, barge, boat, vessel. raft, timber, bamboos or floating materials, propelled in any manner:

the words "line of navigation" shall mean any navigable Line of channel subject to the provisions of this Act:

navigation.

the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), post, p. 635.

The Bengal Embankment Act, 1882 (Ben. Act 2 of 1882) does not apply to any embankment, lead or watercourse which is under the operation of the present Act—see s. 91 of the Act of 1882, post, p. 657.

Collistrion of Canal folia by Municipal Commissioners are of collect tolls, under section 8 of the present Act, on navigable channels gassing through a Municipality, see the Bengal Municipal Act, 1884, s. 171, post, p. 767.

As to the crediting of profits to the Municipal Fund, and as to the exercise by the Commissioners of the powers vested by the present Act in the Collector, see 666. As to the cancellation of section where the collection of the powers vested by the present Act in the Collector, see 666. As to the cancellation of section where the present Presidency of Fort William in Bengal and other territory.

This includes the present Presidency of Fort William in Bengal and other territory.

The word "the" in the presamble, which was repealed by the Repealing and Amending Act, 1903—wide Act 19 of 1914, Bob. II.

The words "specified in the Regulations and Acts in the Schedule to this Act annexed," which were repealed by the Repealing and Amending Act, 1906 (1 of 1903), are omitted.

¹ LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal (see the title), and applies to navigable channels notified under s. 2 or authorized under s. 8.

For a list of channels to which the Act has been so applied, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), r. 4 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—As to canals, see also the following enactments:—

the Bengal Embankment Act, 1855 (82 of 1855), in Vol. I of this Code; the Bengal Embankment Act, 1866 (Bon. Act 7 of 1866), post, p. 127; the Bengal Embankment Act, 1876 (Bon. Act 6 of 1873), post, p. 226; the Bengal Irrigation Act, 1876 (Bon. 3 of 1876), post, p. 812; and the Bengal Embankment Act, 1882 (Bon. Act 2 of 1882) does not apply to any embankment of the Bengal Embankment Act, 1882 (Bon. Act 2 of 1882) does not apply to any embankment of the Bengal Embankment Act, 1882 (Bon. Act 2 of 1882) does not apply to any embankment act.

(Secs. 2-5.)

Channel.

Person.

the word "channel" shall include any river, canal, khal, nala or waterway, whether natural or artificial:

the word "person" shall include any company, association

or body of persons, whether incorporated or not.

(Number and gender). Rep. by the Repealing and Amending Act, 1903 (1 of 1903). See now the Bengal General Clauses. Act, 1899, s. 14, in Vol. III of this Code. Act I of 1903 is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

What navigable channels may be rendered subject to provisions of Act. 2. It shall be lawful for the Lieutenant-Governor of Bengal, from time, to time, by notification to that effect published in the Calcutta Gazette, to declare that the provisions of this Act shall apply to any navigable channel specified in such notification;

and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel

By whom navigable channels may be made. 3. It shall be lawful for the Lieutenant-Governor of Bengal¹ from time to time, to authorize⁴ any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such channel; and any navigable channel made under this section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.

The Government of Bengal 1 may take possession; as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of 1 in force for the taking possession of land

for public purposes 8.

Bar of suit against

Mode of

land for the

4. No action or suit shall be brought against the Secretary of State for India in Council, or the Government, in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section.

l'olis to be paid on lines of navigation subject to Act.

5. Tolls, at such rates as shall be fixed in manner hereinafter mentioned, shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act:

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assain Lawa Act, 1912 (7 of 1912); s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁹ For a list of norifications issued under section 2 for Bengal as constituted on the Mast Masch, 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pr. VI.

⁹ The rest of section 2, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

¹ For an order made ander section 3, for Bengal as constituted on the Sist March, 1913, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pr. VI.

is omitted.

*For an order made under section 8, for Bengul as constituted on the 31st March, 1913, see the Bengul Local Statutory Rules and Orders, 1912, Vol. I, Pt VI.

*The words and figures "Act 8 of 1857 for the acquisition of land for public purposes) or of, in a. 8, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

*The word "other," in a. 8, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

of 1906); is omitted.

The word "other," in s. 8, which was repealed by the Repealing and Amsoding Act, 1908—(1 '7 The words "that may no w or hereafter be," in s. 8, which were repealed by the Repealing and Amending Act, 1906 (1 of 1908), are omitted.

So to now the Land Acquisition Act, 1894 (1 of 1894), printed in the General Acts, 1887-97, Ed. 1908, p. 368.

(Secs. 6-9.)

Provided that such tolls shall be payable only so long as Provino.

such line of navigation shall be open. 6. The Lieutenant-Governor of Bengal may fix, and from Lieutenanttime to time alter, the rates at which such tolls shall be at and alter at the rates at which such tolls shall be at and alter at the rates at which such tolls.

levied:

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the Calcutta Gazette, for such period as the said Lieutenant-Governor may fix, of the intention to levy or alter such tolls, and of the rate or place at which such toll is to be levied.

7. Notification of the rates of toll and of the places of Publication of rates of toll collection shall be at all times exhibited to public view at a terrer tollevery toll-house where toll is levied under this Act, in the house English, Urdu and Bengali languages.

8. The Lieutenant-Governor of Bengal shall appoint Lieutenantsuch persons as he may think fit to collect tells under this appoint Act, and it shall be lawful for any person, so appointed to farm persons to the collection of tolls to any other person, with the sanction of who may the Government of Bengal or to employ any other person in collection.

such collection.

The person to whom the collection of tolls may be furmed out, or who may be employed in the collection of them, shall have power to collect and be authorized to receive them, in

the like manner as any person appointed as aforesaid.

*9. If any toll due under the provisions of this Act in Payment of respect of any vessel shall not be paid on demand to the person enforced. authorized to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same;

and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf;

and on receipt of this report the Collector', Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oclean and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sob. D. items 1 and 2, in Vol. I of Cha'Uode.

For a list of orders made under s. 5, fixing rates of tolls for places in Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. Pl.

For an order exempting certain ressels from toll or demurrage, see ib.

For an order exempting certain ressels from toll or demurrage, see ib.

For all stof appointments made unders. 8 for Bengal as countifitted fri the Sist March, 1913, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI.

As to the collection of tolls by Municipal Commissioners, see footnoid on p. 23, 2nte.

As to the recovery of sums due from a farmer or his surety, see the Bengal Public Demands Between As to the application of s. 9 to the recovery of the expense of this Code.

As to the spring of the control of the code of the surety of the expense of removing obstructions, see 1.4 last pars., post, p. 25.

As to the expense of Dowers of Collector by Municipal Commissioners, see footnoise by p. 21, 2nter.

(Secs. 10, 11.)

The sale shall be held at some period not less than fifteer days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector. Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the

person in charge of the vessel.

Penalty for evasion of toll. 10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.

Rules relating to lines of navigation.

11. It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following

umongst other matters :-

for determining the tonnage of vessels and their measurement;

for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast;

for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time;

for regulating the mode in which and the places at which tolls are to be levied under this Act;

for the removal of sunken vessels and obstructions; and for the storing and disposal of the cargo of vessels seized under this Act.

¹ As to the exercise of powers of Collector by Municipal Commissioners, see footnote on p. 21, anir.

Row the Governor in Council of Fort William in Bengal—see the Bengal, Binar and Griffsa and Assan Lays Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 3, in Vol. I of this Code.

For a list of rules made under sections 11 and 12 for Bengal as constituted on the 91st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 12-15.)

12. Rules shall not be passed until the same shall have Publication been published in the Calcutta Gazette for a period of six weeks; of such rules. and after that time the rules shall be published as passed, with such alterations (if any) as to the Lieutenant-Governor of Bengal' shall seem fit.

The rules so published as passed shall not have effect until the expiration of two weeks after such last publication; and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules, in the English, Urdu and Bengali languages, shall be exhibited to public view at every place

where toll is collected.

13. It shall be lawful for the Government of Bengal to Appointment appoint any person to be the supervisor of any line of navigation subject to the provisions of this Act; and such person remove shall be empowered to cut down and remove any tree which obstruction. may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vesset, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

14. Whenever such supervisor shall consider that the Mode of exercutting down and removal of any tree or the removal of any power. other obstruction is necessary he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place. in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for

the recovery of tolls in section 9 of this Act.

15. Whenever in the opinion of such supervisor the con-supervisor struction of any bandel or other contrivance for fishing, or for may forbid construction any other purpose, in any line of navigation is likely to of bandels, cause obstruction to the free and safe transit of such line of sto. navigation, he may, by a notice in writing to be served on the. owner or person in charge of such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed.

¹ For a list of rules, made under sections 11 and 12, for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. Vi.

1 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 8, and 80st. D, items 1 and 2 in Vol. 1 of this Code.

2 For a list of orders made ander section 15, for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

[Ben. Act 5 of 1864.]

(Secs. 16-20.—Schedule).

at some conspicuous place in the nearest village, forbid the

construction of such bandel or other contrivance.

16. Any person who shall wilfully cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.

17. (Recovery of fines). Rep. by the Repealing and Amending Act, 1903 (1. of 1903), now known as the Amending Act,

1903-vide Act 10 of 1914, Sch. II.

18. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed:

and, such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the officence may not have been committed locally within such limits;

and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19. (Indemnity for certain acts done heretofore in the collection of tolls, etc.). Rep. by the Repealing Act, 1873 (12 of 1873).

Short title.

20. This Act may be cited as the Canals Act, 1864.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Rep. by the Repealing and Amending Act, 1903 (1 of 1908), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

BENGAL ACT 7 OF 1864

(THE SALT ACT, 1864).

CONTENTS.

PREAMBLE.

SECTION.

- Short title
- (Repealed.)
- Interpretation.
- Unlicensed manufacture of salt prohibited.
- Penalty for such manufacture.
- Confiscation of salt and materials.
- Board of Revenue to grant licenses on certain conditions.
- Proprietor and others to give notice to police of unlicensed salt-works on their lands.
- 9. (Repealed.)
- Licensed manufacturer to provide proper warehouse. 10.
- Lieutenaut-Governor may prescribe rules and impose penalties. 11. Proviso.
- Regulation of possession and transport of salt. 13. Rawanas by whom and how granted.
- Rawana not to be granted without payment of duty.
- Limitation of possession or transport of salt. Proviso.
- Penalties for possessing or transporting salt without rawana.
- Punishment for transporting salt in excess of quantity specified in rawana,
- Confiscation of salt conveyed otherwise than as allowed.
- 19. Salt transported beyond limits not to be again brought within them without a special rawana.
- Salt sold or lost within limits to be certified on back of rawana.
- Penalty for omitting to certify sale or loss.
- If whole quantity be sold within limits or whole or part carried beyond, rawana to be delivered up.
 Inspection of salt-works by police-officers.

- Arrest of persons carrying salt liable to confiscation.

 Salt seized may be weighed by police-officer.

 Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.
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- Rules regarding entry of house by force.
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- Rules of Criminal Procedure Code applied.
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- On confiscation, salt to vest in Her Majesty. 83.
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SCHEDULE. (Repealed.)

APPENDIX. Note showing the extent to which the Indian Salt Act, 1882, is in Torce

BENGAL ACT 7 OF 1864

(THE SALT ACT, 1864)1.

(15th June, 1864.)

An Act to amend and consolidate the laws relating to the manufacture, possession, transport and sale of sait in the Provinces under the control of the Lieutenant-Governor of Bangal'.

Whereas it is expedient to amend and consolidate the laws Preamble. relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal²: It is enacted as follows:

1. This Act may be cited as the Salt Act, 1864.

2. (Enactment's repealed). Rep. by the Repealing Act, 1873 Short title. (12 of 1873).

3. The following words shall have the several meanings Interpretahereby assigned to them, unless where a contrary intention tion. shall appear from the context (that is to say):-

the word "sait" shall include every saline substance and "Sait." preparation used or intended to be used with food;

the word "manufacture" shall include the preparation "Manufacor collection of salt;

the words "salt-work" shall mean any place used or "salt-work." intended to be used for the manufacture of salt;

the words "Board of Revenue" shall mean the Board of "Board of Revenue for the Lower Provinces of the Pres:- Revenue." dency of Fort William in Bengal;

1 LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1864,

1 LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1864, p. 202.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the title and preamble.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) printed in Vol. 1 of this Code.

COMMENCEMENT.—The Act came into operation on the 1st July, 1865—see Notification, dated the 18th May, 1865 (in Calcutta Gasette of 24th idem, p. 945), issued under s. 42 of the Act.

SUPERBESSION.—The Act is to a great extent superseded by the Indian Salt Act, 1882 (12 of 1882), in the several areas (see Appendix, post, p. 37) in which the latter Act is in force.

CUSTONS DUTY.—As to customs duty on imports of salt by sea, and imports by land from foreign territory, see the Indian Tariff Act, 1884 (8 of 1878), ss. 5, b, and Sch. III., in General Acts, 1887-87, Ed. 1906, pp. 884, 885, 891.

As to customs duty on salt imported coastwise, see the Sea Customs Act, 1878 (8 of 1878), is. 30 (b), in General Acts, 1886-87, Ed. 1909, pp. 625, and the Indian Tariff Act, 1894, as. 2 (4), 7, in ibid, 1887-87, Ed. 1909, pp. 884, 885.

This includes the present Presidency of Fort William in Bengal and other territory.

By Child, 1887-87, Ed. 1909, p. 688.

This includes the present Presidency of Fort William in Bengal and other territory.

Checker that all powers which may, under the present Act, 1878 (Ben. Act 1 of 1875), a. 1, post, p. 237, declared that all powers which may, under the present Act, be exercised by a Magistrate, may be exercised by a Magistrate of the first or second class. Act 1 of 1908 is now known as the Amending Act, 1908—side Act 10 of 1814, ch. II.

(Secs. 4-7.)

"Police-

" Seer."
" Maund."

Salt in possession of servant or agent.

Causing or procuring act to be done, punishable in same manner as doing act.

" Rawana."

the words "police-officer" shall include all village-police-officers;

the word "seer" shall mean a weight of eighty tolas; the word "maund" shall mean a weight of forty seers;

when salt is in the possession of a person's servant or agent on his account, it is in that person's possession within the meaning of this Act;

where the doing of any act is made punishable by this Act, or by any of the rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner;

the word "rawana" shall mean a written or printed permission duly issued under the provisions of this Act, to possess or transport salt;

Unlicensed manufacture of salt prohibited.

Penalty for such manufac4. Within the provinces under the control of the Lieutenant-Governor of Bengal¹ it shall not be lawful for any person who is not duly licensed in the manner hereinafter provided to manufacture salt.

5. Whoever, without a license duly obtained under this Act, shall manufacture, or attempt to manufacture, salt shall be punished with fine, which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to six months, or with both.

The use of each salt-work in such unlicensed manufacture shall be a separate offence within the meaning of this section; and each fire or fire-place, or place for collecting salt in any mode, used or intended to be used in such manufacture, shall be deemed a separate salt-work.

The continuing, after conviction and sentence, of the offence mentioned in the introductory part of this section, shall be considered as amounting to the commission of such offence and shall be punishable in the same way as such offence.

Confiscation of salt and

card of

Revenue to grant licens 6. All materials and implements used or intended to be used in manufacturing salt without a license, and all salt so manufactured, shall be confiscated.

7. The Board of Revenue shall grant licences to manufacture salt in such places in the said provinces and to such persons as they shall think fit:

Provided that no person shall obtain a license to manufacture salt unless he shall have complied with such terms and

¹ For power to make rules and to prescribe penalties for breach thereof, see a, 11, post, p. 81, ² The clauses as to number and gender, which were repealed by the Repealing and Amanding Act, 1908 (1 of 1908), are omitted. See now the Bengal General Changes Act, 1899 (Ben. Act, 1, at 1899), R. 14, in Vol. III (c) this Code.

This includes the present Puesidency of Fort William in Bengal and other territory.

(Secs. 8-15.)

conditions for securing the payment of the duty hereinafter mentioned as may be required by the said Board.

8. Every proprietor, tenant, under-tenant and cultivator Proprietor who owns or holds land on which there shall be any salt-work give notice to not licensed under the provisions of this Act,

and every naib, gumashta, tahsildar or other agent employed by the Government or the Court of Wards or by any private lands. proprietor on such land.

shall, within ten days after the existence of any such saltwork shall have come to his knowledge, give written notice

of the same to a police-officer. If any person bound to give notice under this section shall wilfully omit or delay to give the same, he shall for every such offence be liable to a fine not exceeding five hundred

rupees for each salt-work. 9. (Rate of duty on manufacture of salt). Rep. by the

Indian Salt Act, 1882 (12 of 1882).

10. Every licensed manufacturer of salt shall, before he Licensed begins to manufacture, provide a proper and secure warehouse, to provide to be approved by the Board of Revenue, for the purpose of proper depositing and securing therein the salt to be manufactured; and all salt manufactured by him shall in the first instance be deposited in such warehouse.

11. The Lieutenant-Governor of Bengal' shall from time Lieutenant to time prescribe rules, which shall be notified in the Calcutta Governor may prescribe for regulating the manufacture, deposit and transport rules and transport and transport rules are constituted to several the revenue. of salt, and for securing the payment of the duty thereon; and shall from time to time fix penalties for infringements of such rules:

Provided that no rule shall be repugnant to any of the pro- Proviso. visions of this Act, or to any law in force, and that no penalty shall exceed five hundred rupees.

tll exceed five hundred rupees.

12. Within such limits as the Lieutenant-Governor of Regulation in the Calcutta Gazette, the and smarp in the Calcutta Gazette, the said smarp in the Calcutta Gazette. Bengal' shall define, by notification in the Calcutta Gazette, the possession and transport of all salt shall be regulated in manner hereinafter provided.

13. The Board of Revenue shall grant rawanas for all salt Raw

possessed or transported within the limits so fixed, in accordance with such rules as the Government shall from time to time make in this behalf, and on payment of such fee as may be fixed in such rules.

14. No rawana shall be granted unless the full amount of Research and the granted duty on the quantity of salt, to be specified in such rawana, without perfect the salt. shall have been paid.

15. It shall not be lawful to possess or transport more salt Limitation of than five seers, unless the same shall be specified in a rawana granted under section 13 of this Act:

E This reference is to s. 9, which has since been repealed by the Indian Salt Agt, 1882 (12 of 1882).

*Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Secs. 16-19.)

Proviso.

Provided that this section shall not apply to salt imported by sea and warehoused under Act 6 of 1863 (the Consolidated Customs Act), 1 or to salt deposited by a manufacturer in an approved warehouse under section 10 of this Act.

Penalties for possessing or transporting salt without reward.

Punishment

for transporting sait in excess of

nantity secified in

Confiscation of salt conveyed otherwise than as allowed.

16. Any salt, exceeding five seers in quantity, which may be found within such limits as aforesaid, not specified in a raw na, shall be held to be contraband, and as such shall be seized and confiscated.

The vessels, packages and covering in which such salt shall be found, and any animals or conveyances used in carrying it, shall also be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to a fine not exceeding five rupees for every maind of salt so seized and confiscated.

All persons found in gangs or companies transporting, or attempting to transport, such salt, when the whole quantity exceeds ten seers, shall be liable to the like penalty, and each one of the offenders shall be liable to the whole fine.

In the cases aforesaid the fine shall be at the rate of five rupees per maund, according to the quantity of salt seized, whether more or less than one maund.

17. If any person shall possess, transport or attempt to transport, within the said limits, under a rawana a greater quantity of salt than is specified in such rawana, the excess, as well as the quantity so specified, shall, if such excess be found on weighment to exceed two-and-a-half per centum on the quantity so specified, be held to be contraband, and as such shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to a fine of five rupees for every maund of salt in excess of the quantity so specified.

18. Salt being conveyed by a route or to a place other than that specified in such rawana shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to the penalty prescribed in section 16 of this Act.

19. Salt which may have been transported beyond the said limits shall not again be brought within those limits except under a special rawana granted for the purpose under the authority of the Board of Revenue.

Any salt brought within such limits without such special rawana shall be seized and confiscated; and the persons in whose possession it may be found shall be liable to the penalty prescribed in section 16 of this Act, for the possession of contraband salt.

Salt transported beyond limits not to be again brought within them without a special

¹ Act § of 1868 has been repealed and re enacted by the Sea Customs Act, 1878 (8 of 1878) and this reference should now be read as if made to the latter Act., 1867.8, Ed. 1892, p. 884.
6 As to weighment of salt under s. 16 or s. 17. see a. 2h. neet. p. 22.

(Secs. 20-27.)

It shall be competent to the said Board to withhold or grant

20. All persons possessed of salt specified in a rawana, Salt sold or who may sell, lose or otherwise dispose of any portion of such salt within the said limits, shall certify on the back of such certified on rawana the quantity sold, lost or disposed of by them.

21. Whoever within the said limits sells, loses or disposes Penalty for of salt, and wilfully or negligently omits to certify such sale, loss or disposal thereof in the manner above described, shall be loss. liable to a fine not exceeding five rupees for every maund so sold, lost or disposed of by him; and any salt in his possession not exceeding twice the quantity sold, lost or disposed of, may be' seized by an officer in charge of the police-station as security for the payment of such fine.

22. If all the salt specified in a ra vana be disposed of I whole within the said limits, such rawana shall be delivered up to the sold within officer in charge of the police-station within which the last limits or

parcel of the salt shall have been disposed of.

If any part of the salt specified in such rawana be carried be-yond, rawana yond the said limits, such rawana shall in that case be vered up. delivered up to the officer in charge of the last police-station which such salt may have to pass before being carried beyond the said limits.

23. Any police-officer may enter and inspect, at any time Inspection by day or night, any salt-work, or any warehouse or premises of salt-works in which salt is stored.

24. Any police-officer may arrest any person carrying or Arrest of in possession of contraband salt, and may seize the vessels, persons packages and covering, and any animals or conveyances used liable to. in carrying such salt.

25. For the purposes of the preceding section and of sec-salt selections 16 and 17 of the Act, it shall be lawful for the officer in wighed by charge of the police-station within which the salt shall be police-officer.

found to cause the same to be weighed.

26. Any person arrested on the ground that he has been Person guilty of an offence under this Act shall forthwith be taken arrested to be before a Magistrate or Justice of the Peace, who may, if he see taken before reasonable cause, order such person to be detained in custody and detained until the case shall have been disposed of in the manner here- or a inafter provided:

Provided that any person so detained shall be liberated on giving recognizance or security to appear at such time and.

place as shall be appointed for his appearance.

27. It shall be lawful for the Magistrate of a district, or, magistrate division of a district, on application by a police-officer, stating his belief that salt is manufactured in any place within such warm district or division contrary to the provisions of this Act, or that salt not specified in a rawana is kept or concealed in any house, boat or place in such district or division, to issue a warrant to search for such salt.

whole or part carried be-

police-officers.

confiscation.

(Secs. 28, 29.)

Such warrant shall be excuted in the same way, and shall have the same effect, as a search-warrant issued under the Code 25 of 18

of Criminal Precedure. 1

It shall be lawful for any Magistrate of the town of Calcutta, on the like application in reference to salt believed to be manufactured in Calcutta contrary to the provisions of this Act, or kept or concealed contrary to the provisions of this Act in any house, boat or place in Calcutta, to issue a warrant, which shall be executed in the same way and shall have the same effect as a search-warrant under Act 13 of 1856 (for regulating the police of the towns of Calcutta, Madras and Bombay).

28. Whenever any officer in charge of a police-station shall have reasonable cause to believe from information (which shall be taken down in writing) that salt is being manufactured in any place contrary to the provisions of this Act, or that salt not specified in a rawana is kept or concealed in any house,

boat or place,

such officer may, between sunrise and sunset, but always in the presence of another police-officer, enter into any such ' house, boat or place, and in case of resistance may break open any door and remove any obstacle to such entry;

and may seize and carry away all such salt so found, and all materials and implements used, or intended to be used,

in the manufacture,

and may arrest all persons concerned in the manufacture or

the keeping and concealing of such salt:

Provided that, whenever it shall be necessary to enter any house in such manner, the rules for entering a house in execution of a search-warrant, prescribed in Chapter VIII of the Code of Criminal Procedure, and in the said Act 13 of 1856, 25 of 1861.

shall be observed by the officer effecting such entry.

29. When any salt or other property shall be seized as contraband, any Magistrate within the district or division of a district wherein the same may be seized may, upon the information of any police-officer, summon the person in

Rules

The Code of Criminal Procedure here referred to (Act 25 of 1881) was repealed and re-enacted by Act 10 of 1872. The latter Act was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by Act 10 of 1888 (5 of 1898). The reference in the text should be taken to be made to the Act of 1898—see a. 3 (2) thereof, in General Acts, 1898-09, Ed. 1904, As to essayoh-warrants, see ss. 95 to 99 of Act 5 of 1898, in General Acts, 1898-09, Ed. 1906,

pp. 13-73.

Act 18 of 1856, so far as it is applied to the town of Caloutts, was repealed and re-enacted by the Calcutta Police Act, 1866 (Ben. Act 4 of 1866). The Bengal Sait Act, 1878 (Ben. Act 1 of 1878), s. 8 (post, p. 227), declares that all references made to Act 18 of 1854 in the Sait Acs, 1866 (Whall be taken to be under to the Calcutta Police Act, 1866 (Ben. Act 4 of 1864), which is printed gast, p. 89.

The Cede of Oriminal Procedure here referred to (Act 25 of 1861) was repealed sait re-enacted by Act 10 of 1872. It was declared in s. 2 of Act 10 of 1877 that this reference to Chapter VIII of Act 25 of 1861 should be deemed to be made to Chapter XXVII and ss. 415 to to 1887, which again has been repealed and re-enacted by 16 of 1869, and 18 of 1861, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (for 1898). Section 8 (70 of the Code of 1895 carries on references to former Codes, and the reference in the text should therefore how be taken to be made to the search-warrant provisions of Act 5 of 1898 (printed in the General Acts, 1898-1908, Ed. 1998), p. 40.)

(Secs. 30-36.)

possession of such salt or other property, or to whom the same may belong, to appear before him; and upon such appearance, or in default thereof may examine into the cause of the seizure thereof, and may adjudge the same to be confiscated.

30. The rules contained in the Code of Oriminal Pro-Rules of cedure 1 for the trial of cases before a Magistrate and for appeal coding Code against orders passed by a Magistrate shall be applicable to applied. adjudications under the last preceding section.

31. When any salt or other property shall be seized under Sciences with this Act as liable to confiscation within the local limits of the bedetermine. town of Calcutta, such seizure shall, upon information exhibit- on by Justice of the Peace. ed by any police-officer, he heard and determined in a summary way by a Justice of the Peace for the town of Calcutta;

and such Justice shall cause the person in possession of such salt or other property, or to whom the same may belong, to be summoned to appear before him; and upon such appearance, or in default thereof, shall inquire into the cause of such seizure, and may adjudge the same to be confiscated.

32. When the confiscation of any salt or other property on con shall be adjudged under the three last preceding sections, the tion, salt to same shall thereupon belong to, and vest in, Her Majesty, Majesty. and a warrant shall be issued by the Court to a police-officer directing him to hold the salt or other property confiscated at the disposal of the Board of Revenue

33. Any police-officer who shall vexatiously and un-penalty see necessarily seize the goods or chattels of any person on the vexations and pretence of seizing or searching for contraband salt, or who arrests. shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees or to simple imprisonment for a term not exceeding six months.

34. Whenever any person shall be convicted of an offence Punishin against this Act, after having been previously convicted of a on secon subseque

he shall be liable, in addition to the penalty attached to such offence, to simple imprisonment for a period not exceeding six months,

and a like punishment of imprisonment not exceeding six months shall be inflicted, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

35, 36. (Enforcement of penalties.—Period of imprisonment in de, ault of payment of fine). Rep. by the Repealing and Amending Act, 1903 (1 of 1903). now known as the Amending Act, 1903-vide Act 10 of 1914, Sch. II.

⁵ The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted to 10 of 1872. The latter Act was repealed and re-enacted by Act 10 of 1892, which seems been repealed and re-enacted by the Code of Oriminal Procedure, 1898 (5 of 1898), reference in the text should be taken to be made to the Act of 1898—see s. 8 (2) thereof, in Ga Acts, 1898-08, Ed. 1909, p. 40.

(Secs. 37-42.—Schedule).

Limitation as to charge. 37. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Bar or certiorari as to Justices' proceedings. **38.** No writ of *certiorari* shall be issued at the suit of any party out of the High Court of Judicature, to supersede, stay, remove or in any wise affect any information or judicial proceeding before any Justice of the Peace in pursuance of this Act;

Quashing

and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

Board of Revenue may mitigate penalties. 39. When any confiscation or penalty shall be adjudged under this Act, the Board of Revenue, within three months after final judgment, may call for the proceedings of the case, and if they shall see cause may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof and direct that the offender be discharged.

Disposal of proceeds of seisure and tines. thereof and direct that the offender be discharged.

40. All fines paid or levied under but this Act shall be at the disposal of the Board of Revenue, and the said Board may appropriate the same or any portion thereof, and the proceeds of any seizure or any portion of such proceeds, to form a fund for rewarding the police of such grades as may be determined by the said Board, and for rewarding informers, and for compensating persons subjected to annoyance or injury by any proceeding under this Act.

Limitation of suits, etc.

41. No suit, action or other proceedings shall be commenced against any person for anything done in pursuance of this Act. without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding, and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit, action or other proceeding.

42. (Power to notify commencement of Act). Rep. by the Repealing Act, 1873 (12 of 1873).

Total disconnection of the same

SCHEDULE.

(Enactments repealed). Rep. by the Repealing Act, 1873 (12 of 1873).

¹ The words and figures " section 25 of," which were repealed by the Revealing and Amending Act, 1903 (1 of 1903), are omitted.

(Appendix.)

APPENDIX .- NOTE SHOWING THE EXTENT TO WHICH THE INDIAN SALT ACT, 1882, IS IN FORCE IN BENGAL.1

1. Sections 1, 2, 7 and 8 of the Indian Salt Act, 1882 (12 of 1882), and so much of that Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India (see section 1 of the Act), including Bengal.

2. Section 1 of the said Act empowers the Governor-General *. in Council to extend any portion of the Act (other than the portions specified in paragraph 1 above, which are already in force) to any part of Bengal. Under this power the following

extensions have been made for Bengal, namely :-

(1) to the districts of the 24-Parganas [except Calcutta, as Son Notification the districts of the 24-Parganas [except carrows, Normanion to which see clause (2), post], Midnapore, Khulna, No. 1694 to which see clause (2), post], Midnapore, Khulna, No. 1694 to which see the April, and the Apri

- (a) the portions specified in paragraph 1, above (which were already in force), Pt. IA., p. 86
- (b) the words "an Assistant Commissioner of and Notification Northern India Salt Revenue, and also No. 2757 includes," in the second clause of section the 21st May,
- 1901, in Calcutta (c) the words "any officer of the Northern India Gasette, 1901, Salt Department, and also includes," in Pt. IA, p. the third clause of section 3.
- (d) sections 5, 8A and 8B,
- (e) the words "unless the Commissioner of Northern India Salt Revenue otherwisedirects," in section 22,
- (f) the last sentence of section 27, and
- (g) the words "or the Commissioner of Northern India Salt Revenue," in section 30:

(2) to "Calcutta," as defined by or under the Calcutta see
Municipal Act, 1899 (Ben. Act 3 of 1899), and to the Notification
area included within a distance of two miles from S.R. dated
the limits of Calcutta, as so defined, the whole Act,
April, 1907, and the limits of Calcutta, as so defined, the whole Act,
April, 1907, and the limits of Calcutta, as so defined, the whole Act,
April, 1907, and 1907, a except the portions referred to in sub-clauses (a) to in Saintle (g) of clause (1) above;

(3) to the districts of Howrah and Noakhali, the whole Act, except the portions referred to in sub-clauses (a) to (g) of clause (1), above

note has been corrected up to the 1st September, 1914. ited in General Acts, 1879-86, Ed. 1909, p. 882. ited in Vol. III of this Code.

(Appendix-contd.)

No. 8209, dated the 19th June 1889, in Calcutta Gasette, 1889, Pt. IA., p. 59.

- (4) to the district of Malda, the whole Act, except-
 - (a) the portions specified in paragraph 1, above (which were already in force), and
 - (b) section 31;
- 3. Sections 8A and 8B, and the last sentence of section 27, were introduced into the Act by the Indian Salt Act (1882) Amendment Act, 1890 (19 of 1890), and all these clauses as well as section 5 relate only to Northern India. Section 31 related only to the Madras Presidency, and was repealed by the Act of 1890 just mentioned.

It will thus be seen that the whole of the Act of 1882, so far as it is applicable to Bengal, is now in force in the several areas mentioned in clauses (1) to (4) of paragraph 2, ante.

¹ Printed in General Acts, 1887-97, Ed. 1909, p. 294.

BENGAL ACT 4 OF 1865

[THE BENGAL PREVENTION OF INOCULATION ACT, 18651].

(1:th April, 1865.)

An Act for the prohibition of the practice of inoculation in the town and suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant-Governor of Bengai in Council, has been or shall hereafter be extended.

Whereas it is found that small-pox is spread by inocu- Preamble. lators who infect persons living in towns without adopting any precaution against contagion;

And whereas proper and sufficient arrangements have been made in the town of Calcutta and in its suburbs, and in certain other towns in the province of Bengal, for the vaccination or inoculation with the cow-pox of the inhabitants thereof respectively; and it is desirable to prohibit by law the practice of inoculation with the small-pox in such towns and places;

It is enacted as follows:—

1. Any person who shall hereafter produce, or attempt Penalty for modules in any negron by incordating with producting to produce, in any person, by inoculation with variolous otherwise matter, or by wilful exposure to variolous matter, or to any producing small-pox, matter, article or thing impregnated with variolous matter, or who shall wilfully, by any other means whatsoever, produce the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

BEGET TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. Fhat Act is now known as the Amending Act, 1903—wide Act 10 of 1914, Sch. II.
LEGILATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866,

p. seo.

LOCAL EXTERT.—This Act extends to the town and suburbs of Calcutta and to Howrah, and may (see s. 8, post, p. 40.) be extended to—

⁽a) any other municipality,
(b) any cantonment, or
(c) any place in which there are proper and sufficient arrangements for inoculation with a
cow-pox.

The application of the Act is harred in the Chittagong Hill-tracts by the Chittagong Hills of Regulation, 1900 (1 of 1900), section 4(8), printed in Yel. I of this Code.

The Regulation, 1900 (1 of 1900), section 4(8), printed in Yel. I of this Code.

The PROPERTY HER ACTURENT. For a turbler ensemment relatings to small-pop, see the Bengel Veccime, and Act, 1980 (Ben. Act 5 of 1880) post p. 468.

Ben. Act 5 of 1984 was repeated by Ben. Act 5 of 1876, which again has been repeated and acting the Bengel Municipal Act, 1984 (Ben. Act 8 of 1884). This reference to Ben. Act 1984 (Ben. Act 8 of 1884). This reference to Ben. Act 1984 (Ben. Act 8 of 1884).

This inclineds the present Presidency of Fort William in Bengel and Other terretary.

(Secs. 2-4.)

Penalty for ertificat before forty days from

Act when

2. If any person, having been inoculated with the smallpox in a place to which the provisions of this Act shall not at the time be applicable shall afterwards enter the town of Calcutta, or any other town or place to which such provisions shall then be applicable, before the lapse of forty days from the date of such inoculation, or without a certificate from a qualified medical officer 1 stating that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

3. This Act shall take effect in the town of Calcutta and in the station of Howrah and suburbs of Calcutta, as the same are defined in the Schedule appended to Act 21 of 18572 (to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah, from the date of the passing of this Act;

and it shall be lawful for the Lieutenant-Governor of Bengal,3 at any time after such date, by notification 'published in the Calcutta Gazette, to extend this Act to any town or place to which Act 3 of 1864. passed by the Lieutenant-Governor of Bengal in Council (the District Municipal Improvement Act) shall then apply, or in which there shall then be any Military Cantonment, or in which it shall appear to the Lieutenant-Governor of Bengal that at the time of such notification there exist proper and sufficient arrangements for the inoculation of the inhabitants thereof with the cow-pox.

4. The provisions of the Code of Criminal Procedure 25 of 1861. relative to the meaning thereby assigned to the word "Magistrate," and to cases triable under Chapter XV of the said Code

Mode of

1 As to the meaning of the expression "qualified medical officer" see the Bengal Medical Act, 1914 (Ben. Act 8 of 1914), s. 80, in Vol. III of this Code.

The Howrah Offences Act 1857. The Schedule to that Act is printed in Vol. I of this Code, except the portion relating to the suburbs of Calcutta, which was repealed by the Repealing Act, 1874 (16 of 1874). That portion ran as follows:—

"Suburbs of Calcutta.

The villages composing the Government estate of Punchanogram, and all lands belonging to any other estate which are situate within the general limits of the said Government estate.

Garden Reach or Moocheekhols—Ramnugger—Singerstee—Indree—Sonale—Borrberland Rajharampur—Bhookylas—Dukhin Sherepoor—Kidderpore—Bykantpoor—Aden Ganga Chur-Ram Chanderpur—Ekbalpoor—Mominpur—Balrampur—Alleepur—Jeerant—Radhanuggur—Gopalnuggur—Doorgapoor—Chetla—Jarool—Do wlutpur—Sonadange—Mangirat—Moyapoor—Shurhurpur."

Sonadangs—Mangirat—Moyapoor—Shurhurpur."

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisaa and Assam Laws Act, 1912 (7 of 1912), s 5 and 5ct. D, items 1 and 2, in Vol. I of this Code.

For a list of notifications, issued under section 5 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

"The Act 5 of 1864 was repealed by Ben. Act 5 of 1876, which again has been repealed and re-enauted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884). This reference to Ban. Act 8 of 1864 must now be taken to be made to the Bengal Municipal Act, 1884—see s. 2 of the

18 of 1865 must now be taken to be made to the sengal municipal Act, 1884—see s. 2 of the ler Act, see, p. 710.

*The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted Act 10 of 1875. The latter Act, was repealed and re-enacted by Act 10 of 1885, which again seem repealed and re-enacted by the Code of Criminal Procedure, 1894 (5 of 1895), and the common in the text should now be read as referring to the latter Act.—see, 8 (1) thereof; in, second Acts, 1888-86, Rd. 1889, p. 40.

whenever the convicting Magistrate shall mentence the offender to fine, it shall be lawful for such Magistrate to award any portion, not exceeding one-half, of such fine to the person on whose information such offender has been convicted.

The words "and to the recovery of fines" were repealed by the Repealing and Amending.

Act, 1908 (1 of 1908), and are omitted.

The portion, applying Calcutta Police Acts, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

BENGAL ACT 7 OF 1865

[THE BENGAL MUNICIPAL (SLAUGHTER-HOUSES AND MEAT-MARKETS) ACT, 1865]. 1

(26th April, 1865.)

An Act to make provision for the better regulation and supervision of Public Slaughter-Houses ° ° ° 1, and for the adoption of proper Conservancy arrangements connected therewith.

Whereas it is necessary to make provision for the better Preamble. regulation and supervision of public slaughter-houses and markets for the sale of meat and fish , and for the adoption of proper conservancy arrangements connected therewith; It is enacted as follows:-

1. No place within ³ [any limits to which this section No place to be used as has heretofore been, or may hereafter be, extended by notification and alargebrase. cation under section 9] shall be used as a slaughter-house, house unless a license in writing for the use thereof as a slaughter-house house house has been obtained from the Municipal Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such license;

and whoever, without such license, uses as a slaughter-house any place within the limits aforesaid, shall be liable to a penalty not exceeding two hundred rupees, and to a penalty not exceeding fifty rupees, for every day, after the conviction for such offence, during which the said offence is continued:

Provided that nothing in this Act shall apply to any Hindu or Muhammadan place of worship.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—wide Limeistative Papers.—For Statement of Objects and Reasons, see Calcutta Gasette, 1865,

LEGISLATIVE PAPERS.—FOR STATEMENT OF Upletts and Reasons, see Unioutia Gasette, 1885, p. 554.

LOCAL EXTENT.—This Act applies only to towns and places to which it is extended by notification under s. 9—see s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Gaserian Law.—For the general law as to Municipalities in Bengal, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), post, p. 709, and the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1884), post, p. 709, and the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1894), post, p. 709, and the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1894), are united.

The words "in the Suburbs of Calcutta" in the title and preamble, which were repealed by the Repealing and Amending Act, 1908 (1 of 1906), are united.

These words in square brackets in s. 1 were substituted for the words and figures "the intestiction of the Municipal Commissioners of the Suburbs of the town of Calcutta acceptabled under the provisions of Act 3 of 1864, passed by the Lieutenant-Governor of Reegal in Commissioners (Municipal Insprocessus Act)" by the Repealing and Amending Act, 1868 (1 of 1868).

Sci. II—see Vol. I of this Code.

(Secs. 2-5.)

Commissions of the management and regulation thereof.

Licensed slaughterhouses to be properly drained. 2. The Municipal Commissioners may, from time to time, if they shall think fit, with the sanction of the Government of Bengal 1 provide places for the purpose of being used as slaughter-houses, and they may make by-laws for, and with respect to, the management, regulation and charges for the use of such places.

3. Every owner or occupier of any licensed slaughter-house, within the limits aforesaid, shall cause such drains to be made therein as shall be considered sufficient by the Municipal Commissioners, and (if required so to do by the Municipal Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such slaughter-house, or any place used as a meat-market, in a clean and wholesome state;

and if such owner or occupier, after notice in writing given to him by the Municipal Commissioners that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a penalty not exceeding fifty rupees, for every day during which such default is continued.

4. The Municipal Commissioners may, in the manner prescribed and under the conditions laid down in section 84 of [the said] Act 3 of 1864, make by-laws for the inspection of all markets for the sale of meat or fish within the limits aforesaid, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing fifth at least once in every twenty-four hours.

5. The Municipal Commissioners, or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall or place used for the sale of butcher's meat, poultry or fish, or as a slaughter-house, and may examine any animal, carcass or meat which may be therein;

and, in case any animal, carcass, meat or fish appear to be intended for the food of man and to be unfit for such food, may seize the same:

and if it appear to a Magistrate, upon the evidence of a competent person that such animal, carcass, meat or fish is unfit for the food of man, he shall order the same to be

Commissioners may make bylaws for the inspection of markets and alaughter-houses.

Commissioners may enter and inspect slaughter-houses, shops, etc., and may esize un whole-come articles exposed for rais.

¹ Now the Governor in Connoil of Fort William in Bengal—see the Bengal, Bihar and Orlana and Assam La wa Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

**Sem. Act 3 of 1854 was repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), which again has been repealed and re-macked by the Bengal Municipal Act, 1884 (Ben. Act 5 of 1864). The reference to s. 84 of Ben. Act 8 of 1864 should now be taken to be made to Part XII of the Bengal Municipal Act, 1884—see s. 2 of the latter Act, post, p 710.

(Secs. 6-9.)

destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the owner thereof, or the person in whose possession the same is found, shall be

liable to a penalty not exceeding one hundred rupees.

6. The Magistrate before whom any person is convicted of Suspension of an offence contrary to the provisions of this Act, relating to license. slaughter-houses, or of the non-observance of any of the bylaws relating thereto, may in addition to the penalty imposed on such person under the authority of this Act, suspend such license for any period not exceeding two months; and, upon conviction for a second or other subsequent like offence, such license may, in addition to the penalty imposed under the authority of this Act, be revoked.

7. Whoever, during the period for which any such license Penalty for is suspended, or after the same is revoked as aforesaid, slaughterslaughters cattle, or allows cattle to be slaughtered in the bouses slaughter-house to which such license relates, shall be liable to pension or a penalty not exceeding one hundred rupees for every day, revocation after the conviction for such offence, during which the said offence is continued.

8. The provisions of [the said] Act 3 of 1864 in regard to Certain proprosecutions for offences and the enforcement of fines and Bengal Act forfeitures shall be applicable to all prosecutions for offences 8 of 1864 and the recovery of fines and forfeitures under this Act applicable.

9. It shall be lawful for the Lieutenant-Governor of The provisions of this Act, or of any specific portion thereof, to any provisions of this Act, or of any specific portion thereof, to any places in which [the said] Act 3 of 1864 may be in the said of the

ocation of

¹ Ben. Act 3 of 1864 was repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876) which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884). The reference in the text should now be taken to be made to as. 805, 838 and 855 orts 1884). The reference in the text should now be taken to be made to as. 805, 838 and 855 orts Bengal Municipal Act, 1884—see s. 2 of that Act, post, p. 710.

The words "and the magisterial powers conferred upon the Municipal Commissor the Section 6 of the above Act shall be exercised by them for all the purposes of this Act," which were repealed by the Repealing and Amending Act, 1906 (1 of 1908), are omitted.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code.

For a list of notifications issued under section 9 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 8 OF 1865

[THE BENGAL RENT RECOVERY (UNDER-TENURES) ACT, 1865].4

(7th June, 1865.)

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

Whereas doubts have arisen, in consequence of the repeal Presentie. of section 16 of Regulation 7 of 1832, as to the authority by whom patni taluks and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation 8 of 1819 * are to be sold for arrears of rent due to the proprietor on account thereof:

And whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears;

It is enacted as follows:—

1. The word "Collector" as used in this Act, includes all "Collector" officers exercising the full powers of a Collector of a district.

2. (Laws repealed). Rep. by the Repealing Act, 1873 (12 of 1873).

3. The sale for the recovery of arrears of rent of paint Bale by whe taluks and other saleable under-tenures of the nature defined on in clause 1 of section 8 of Regulation 8 of 1819 shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act 6 of 1853, the lands lie; and all acts preparatory to, or connected with, the sale of such undertenures as aforesaid which, by Regulations 8 of 1819 and 1 of 1820° the Judge is required to perform, shall be performed by the said Collector.

8 SEORT TITLE.—This short title was given by the Bepealing and Amending Act, 1903 (1 of 1908), Sch. I.—nes Vol. I of this Code. That Act is now known as the Amending Act, 1968—wide Act 10 of 1914, Sch. II.
Lissialativi Parens.—For Statement of Objects and Reasons, see Calcutta Gasetta, 1865, p. 287

Act 10 of 1914, Sch. II.

LERIBLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, p. 287
LOCAL EXTENT.—This Act contains no local extent clause, but it would appear from section 8,
that it was intended to extend to the same territory as the Bengal Patni Talks Regulation, 1819
(8 of 1819)—printed in Vol. I of this Code, namely, the whole of the former province of Bengal.

The application of the Act is berred in the Chittagong Hill-tracts by the Chittago

ARNOTATED HEPRINT.—This act is reprinted with notes, in the Bengal Sale Law Masual, 1996

or this code. § The Bent Recovery Act, 1868. It is printed in Vol. I of this Code. § The Bengel Paint Teluke Begulation, 1820. It is printed in Vol. I of this Code.

(Secs. 4-9.)

Publication of notice of sale. 14. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act 10 of 1859, shall have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is in course of execution shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village in or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than 20 days from the hanging up of the said notice in the Court in which the decree is in course of execution.

Contents of sale.

15. The said notice shall specify, in the words issued in the plaint in the suit in which the decree was made, the name of the village, estate and pargana, or other local division, in which the land comprised in the said under-tenure is situated. the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

How sale may be stopped. 16. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation 8 of 1819, 5 for the recovery of sums paid by other than the defaulting-holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

ale to ighest 17. The under-tenure shall be sold to the highest bidder in open Court.

18. The party who shall be declared to be the purchases.

18. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency notes, twenty-five per cent. of the amount of his bid; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

imposit estated if idence of inchasehoney not inid up. good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight; or, if the eighth day be a Sunday or other close holiday, then on the first office-day after the eighth day: and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and

As to the repeal of sections 4 to 9 in Eastern Bengal, see footnote on p. 47, auto.
 The Bengal Rent Act, 1858. It is printed in Vol. I of this Code.
 The Bengal Patni Taluks Regulation, 1819. It is printed in Vol. I of this Code.

(Secs. 10-15.)

the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the said under-tenure may be

subsequently sold.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

10. The provisions of all the sections of this Act with Provisions as regard to sales shall also be applicable to all re-sales under this apply to re-Act which may be rendered necessary by the default of any

purchaser.

111. When the purchase-money shall have been paid in Certificate full, the officer holding the sale shall give the purchaser a certote tiffcate in the form prescribed in the Schedule annexed to this purchaser on Act; and shall further, on the purchaser making application full. and depositing the requisite costs, depute an officer or amin to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein.

12. From the proceeds of the sale of the under-tenure the Proceeds of officer holding such sale shall repay to the judgment-creditor with the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of

the defaulting holder of the under-tenure.

13. An appeal shall lie to the Collector from any proceed- Appeal ings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed.

14. No appeal as of right shall lie from any order passed Power of in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and

pass thereon such orders as they may think proper.

15. If any sale of an under-tenure shall, under either of Bocovery the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct.

⁴ As to the repeal of sections 10 to 15 in Eastern Bengal, see footnote on p. 47 auts.

(Secs. 16-18.—Schedule.)

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

Purchaser to acquire the under-tenure with gertain exceptions, free of incumbrances. 16. The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created or by the subsequent written authority of the person who created it, his representatives or assignees:

Provided that nothing herein contained shall be held to entitle the purchaser to eject khudkast raiyats or resident and hereditary cultivators, nor to cancel bond fide engagements made with such class of raiyats or cultivators aforesaid by the late incumbent of the under-tenure or his representatives except it be proved, in a regular suit, to be brought by such purchaser for the adjustment of his rent that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose

default the tenure was brought to sale.

thow different shall apply to the zamindar or other landholder, within fifteen days from the day of sale, to have his name registered in the zamindar or other landholder's books as the purchaser; and shall execute a kabuliyat on the same terms and conditions on which the under-tenure was held by the defaulter; and, if such application be not made within fifteen days, it shall be lawful for the zamindar or other landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act 10 of 1859.

18. (Indemnity). Rep. by the Repealing Act. 1873 (12 of 1873).

SCHEDULE.

(Referred to in section 11.)

I certify that A. B. has purchased, under Act 8 of 1865, the under tenure (as specified in the notice of sale), and that his purchase took effect on the day of the day after that fixed for the last day of payment).

(Signed) C. D.

Collector.

¹ Ag to the repeal of sections 16 and 17 and the Schedule in Eastern Bengal, see footnote on p. 47 and a The Bengal Hent Act, 1859. It is printed in Vol. I of this Code.

BENGAL ACT 2 OF 1866

(THE CALCUTTA SUBURBAN POLICE ACT, 1866).

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BENGAL ACT 2 OF 1866

(THE CALCUTTA SUBURBAN POLICE ACT, 1866),1

(21st March, 1866.)

An Act to provide for the better regulation of the Police within the Suburbs of the Town of Calcutta,

Whereas it is expedient to exclude the suburbs of the town Preamble. of Calcutta from the general police-district of Bengal, and to make provision for the better regulation of the police within the limits so excluded; It is enacted as follows:-

1. It shall be lawful for the Lieutenant-Governor of Bengal 2 Suburbs may to exclude the suburbs of the town of Calcutta, or any portion be excluded from general thereof, from the general police-district of the provinces subject police-district to his control and the limit of the provinces subject police-district to his control; and the limits of the tract of country so excluded shall be defined in a notification to be published in the Calcutta Gazette, and the operation of this Act shall be confined to such limits:8

Provided that it shall be lawful for the said Lieutenant-Governor? from time to time to alter such limits by such notification as aforesaid.

2. For the suburbs of the town of Calcutta so defined as Police for aforesaid there shall be a police-force, which shall consist of such number of officers * *, * and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Lieutenant-Governor of Bengal.

3. The police-force of the suburbs of the town of Calcutta Police to be shall be under the exclusive direction and control of the Com- of Commismissioner of Police for the town of Calcutta, who may from time stone to time, subject to the approbation of the said Lieutenant- Calcutta. Governor, frame such orders and regulations as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other

¹ SHORT TITLE.—This short title was given by the Ropealing and Amending Act, 1908 (1 of 1908), Sch. I —see Vol. I of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865,

LEGIELATIVE PAPERS.—For Statement of Objects and Beasons, see Calcutta Gasette, 1868, page 2187.

LOCAL EXTENT.—This Act extends only to the suburbs of the town of Calcutta—see s. 1.

OTHER ENACYMENTS.—For other enactments relating to the Calcutta Suburban Police, see—
(1) the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898),
(2) the Calcutta Dilce Act, 1898 (Ben. Act 1 of 1898),
(3) the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1919), s. 648, 644; and
(4) the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911), s. 187, in Vol. III of this Code.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item I, in Vol. I of this Code.

For notification under s. 1 defining the limits of the suburbs of Calcutta, see the Calcutta Gasette of the 23nd September, 1880, Part I, 251.

The words "and men," in s. 2, were repealed by the Calcutta and Suburban Police (Amendament) Act, 1910 (Ben. Act 8 of 1910), s. 34, and are omitted.

(Secs. 4, 4A.)

necessaries to be furnished to them, and all such other orders and regulations relative to the said police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Appointment, stc., of force to rest with Commissioner.

4. The appointment of the members of the police-force shall rest with the Commissioner of Police; and he may, at any time suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

Duties of Police-officers.

- ¹4A. (1) It shall be the duty of every Police-officer-
- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view;
- (c) to the best of his ability, to prevent the commission of public nuisances;
- (d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason;
- (*) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (f) to discharge such duties as are imposed upon him by any law for the time being in force;
- (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves;
- (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick and, while guarding or conducting any such person, to have due regard to his condition;

³ Section 4A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), a. 5, in Vol. III of this Code.

(Secs. 5-7.)

- (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;
- (j) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;
- (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness;
- (1) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public;
- (m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets;
- (n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship:
 - (o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or any such boat; and
 - (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.
- (2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the .. said duties.
- (3) A Police-officer may restrain or remove any person resisting or refusing or omitting to conform to, any such direction as aforesaid.
- 5. For any lesser breach of discipline or other miscon- co duct not requiring the suspension or dismissal of the offender, may fine a member of the Police-force may be fined by the Commissioner of discipline. any sum not exceeding one-half of his monthly pay,

8. (Additional penalties for neglect of duty, etc.). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.

en. Act 3 of 1910), 8. 34.

7. No member of the Police-force to be enrolled under this Police not be at liberty to resign his office, or to withdraw notice. Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his inter-

1.3 %

(Secs. 8-8B.)

if a member of the mounted branch of the said force, and two months' notice if a member of any other branch;

and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

On enrolment, Police-officer to receive certificate.

prohibited from other

employment.

8. Every member of the Police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise

removed from employment in the force.

¹ **8A.** The Commissioner or a Deputy Commissioner of Police shall not, without the permission of the Lieutenant-Governor, ² and a Police-officer of lower rank than that of Deputy Commissioner shall not, without the permission of Commissioner of Police,

either as principal or agent,—

(a) engage in any trade, or

- (b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs of Calcutta or of any interest therein, or
- (c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

Offenses by Police-officers

- 1 8B. Any Police-officer who-
 - (a) contravenes any provision of the last foregoing section, or
 - (b) is guilty of cowardice, or
 - (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or
 - (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

Sections SA and SB were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 7, in Vol. III of this Code.
 how the Governor in Council of Fort William in Bengal—ess the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

Vexatious entry, search, seizure, arresi detention, etc

(Secs. 8U-10.)

¹ **8C.** Any Police-officer who—

(a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place, or

(b) vexationally and unnecessarily seizes the property of any person, or

(c) vexatiously and unnecessarily detains, searches or

arrests any person, or (d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or

(e) offers any unnecessary personal violence to any person in his custody, or

(f) holds out to an accused person any threat or promise not warranted by law,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

8D. Any person who knowingly makes a false statement False stateor uses a false document, for the purpose of obtaining for ment to obtain employ himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, release. with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, or to both.

9. Every member of the Police-force who shall be dis- remain for missed from or shall cease to hold and exercise his office, and dismissed members in the control of the property of the prope who shall not forthwith deliver up his certificate, and all the delivering up clothing accontrements and appointments and other neces- clothing, etc. saries which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accourrements, appointments and other necessaries which shall not be so delivered over, wherever the same may be found.

10. (Superannuation Fund). Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. Act 6 of 1905).

¹ Section 8C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1916 (Ben. Act 8 of 1910), a 7, in Vol. III of this Code.

Section 8D was inserted by the Calcutta and Suburban Police (Amendment) Act, 1940 (Ben. Act 8 of 1910), a. 8, in Vol. III of this Code.

(Secs. 11-15A.)

11. (Disposal of proceeds of certain fines, etc.). Rep. by the Calcutta and Suburban Police (Superannuction Fund) Act, 1890 (Ben. Act 1 of 1890), s. 3.

ppointment 12. The Commissioner of Police may, of his own authospecial colleg-officers.

12. The Commissioner of Police may, of his own authority, appoint special Police-officers to assist on any temporary
emergency.

owers of secial Police-Hoers. 13. Every special Police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

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'olice-officer
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erve, etc.

14. If any person, being appointed a special Police-officer as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a flue not exceeding fifty rupees for every such neglect, refusal or disobedience.

appointment
of additional
colice-officers
of application
of private
persons.

15. The Commissioner of Police may also, if he shall think fit, on the application of any person, showing the necessity of it, appoint any additional number of Police-officers to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such Police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the Police-officers belonging to the ordinary force:

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Police-officers so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional Police-officers; and all moneys received by the Commissioner for the payment of any such additional Police-officers shall be accounted for by him.

Constitution of divisions

- ¹15A. (1) Subject to the control of the Lieutenant-Governor, the Commissioner of Police shall, by order,—
 - (a) constitute such and so many Police divisions as he thinks fit, and
 - (b) sub-divide such divisions into such and so many sections as he thinks fit, and
 - (c) define the limits and extent of such divisions and sections.
- (2) Every such order shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

^{*} Section 15A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Res. Act 8 of 1910), s. 9, in Vol. III of this Code.

(Secs. 15B-17.)

115B. Whoever, without satisfactory excuse, wilfully wrongfully enters or remains in or upon any dwelling-house or private remaining is premises or any land or ground attached thereto, or any or on buildpremises or any land or ground attached thereto, or any ground, building, monument or structure belonging to the vehicle, etc. Government or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

16. A Police-officer may arrest without a warrant-

any person found, between sunset and sunrise, armed with ment of reputed any dangerous or offensive instrument whatsoever, theres, etc. with intent to commit any offence against the person or property of another;

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, * * yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking;

and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

*17. (1) When the Commissioner of Police receives information that any house, room or place-

(a) is used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding-house, hostel or mess used or occupied by students, or of any place of public transfer or occupied by students, or of any place of public transfer or occupied by students. or occupied by students, or of any place of public in certain worship or recreation, or

(b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity, or

(c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified in this behalf

¹Section 15B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 10, in Vol. III of this Code.

²The word "road," in s. 16, was repealed by the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act 8 of 1910), s. 24, and is omitted.

²These sections 17, 17A, 17B and 17C were substituted for the original section 17 by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 2, in Val. III of this Code.

(Secs. 17A, 17B.)

by the Lieutenant-Governor1 on the recommendation of the Municipal Commissioners, or (d) is used as a common place of assignation,

- he may cause a notice to be served on the owner (if in occupation), lessor, manager or occupier of the house, room or place to appear before him either in person or by agent on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be passed for the discontinuance of such use of the house, room or place.

(2) If on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Commissioner of Police is satisfied, after making such inquiry as he deems fit. that the house, room or place is used as described in clause (a), clause (b), clause (c) or clause (d) of sub-section (1), as the case may be,

he may, by written order, direct such owner, lessor, manager or occupier, within a period to be stated in such order, not less than ten days from the date thereof, to discontinue such use.

(3) For the purposes of an inquiry under sub-section (2), the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.

(4) The decision of the Commissioner of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be ques-

tioned in any trial or judicial proceeding in any Court.

Penalty for breach of

217A. If any person against whom an order has been passed by the Commissioner of Police under sub-section (2) of the preceding section uses the house, room or place in a manner which contravenes such order after the period stated therein, he shall be punished, on summary conviction before a Magistrate, with a fine which may extend to twenty-five rupees for every day after the expiration of the said period during which the breach continues, and shall, on second conviction, be liable to simple imprisonment which may extend to three months in addition to, or in lieu of, any fine which is imposed under this section.

17B. Notwithstanding anything contained in any other Power wher or lessor law for the time being in force, the owner or lessor of any house, or tenseroom or place, against the lessee, tenant or occupier of which an order has been passed directing the discontinuance of the use thereof as a brothel or disorderly house or for the purposes of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith to determine

such lease, tenancy or occupation.

^{*} New the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa an am Law Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

8 Res 2001 note 2 on page 59, ante.

(Secs. 17C-19.)

1176. (1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct tinuance the discontinuance in any place of music or singing, the beat-music in coring of drums or tor-toms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a naisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood:

Provided that in any case where the discontinuance of music, or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such

alteration or reversal:

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished

with a fine which may extend to one hundred rupees.

18. Whoever has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy shop, or place for the sale or con-keeping hotel, sumption of gania, chandu, or other preparation of opium, license. hemp or other intoxicating drug, plant or substance,

or has or keeps any coffee-house, boarding-house, eatinghouse, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere),

without a license to be obtained in the manner hereinafter

mentioned,

shall be liable to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license:

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

19. No license shall be granted under the provisions of Exclusions Act 21 of 1856 (to consolidate and amend the law relating to not to be the Abkari-revenue in the Presidency of Fort William in granted with Bengal), unless the person applying for such license shall of Commissioner of Police, stating Police.

Penalty for

¹ Section-notes on page 50 auts.

2 Act 21 of 1856 was repeated by the Bengal Excise and Licensing Act, 1878 (Ben. Act Zef 1878), which has been repeated and re-ematted by the Bengal Excise Act, 1909 (Ren. Act 5 of 1908), and this reference is should now be construed as a reference to the latter Act—see s. 6 (2) thereof, in Vel.

(Secs. 20-22.)

that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid, previously obtained from the Commis-

sioner of Police.

¹ [The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Governor. 2]

Duration and conditions of

- 20. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor, to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Act 21 of 1856 shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.
- 21. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

Penalty for keeping up sign-board or notice after expiry of

> 22. The Commissioner of Police may, at his discretion. from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no such license as is specified in the said Act 21 of 1856 is required, upon such conditions, to be inserted in every such

may grant licenses for places for

¹ These words in square brackets, in s. 19, were substituted for the words "subject to the words and control of the said Lieulenant-Governor" by the Calcutta and Suburban Police (Amendment), Act, 1910 (Ben. Act 3 of 1910), s. 11, in Vol. III of this Code.

² Now the Governor in Council of Kort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and 8ch. D, item 1, in Vol. I of this Code.

³ For conditions prescribed under ss. 20 and 22, see the Bengal Excise Manual 1910, Vol.

IP pp. 98 to 100.

Act 21 of 1856 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878) which has been repealed and re-enacted by the Bengal Excise Act, 1899 (Ben. Act 5 of 1868), and this reference should now be construed as a reference to the latter Act—see s. 6 (3) thereof, in Vol.

(Secs. 23-33.)

license as he, with the sanction of the said Lieutenant-Governor from time to time shall order, for securing the good. behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year.

23. Any person committing a breach of any of the condi- Penalty for tions of a license granted either under section 19 or section 22 dition of of this Act shall, on conviction before a Magistrate, be punish- license. able by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the

shop or place of sale.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of said Lieutenant-Governor 1.

24. For every certificate or license granted by the Com- Fee for certimissioner of Police under this Act there shall be levied a fee of ficate. two rupees.

25 to 30. (Penalty for owning or keeping, or having charge of, common gaming house, etc.; penalty for being found playing in common gaming-house; power to authorize entry of common gaming-house for search and seizure; evidence of house being common gaming-house; on conviction, or keeping common gaming house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified). Rep. by the Bengal Public Gambling Act, 1867 (Ben. Act 2 of 1867), s. 17.

31. (Portion of fine may be paid to informer). Rep. by the Repealing and Amending Act. 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

32. (Gambling in the streets). Rep. by the Bengal Public

Gambling Act 1867 (Ben. Act 2 of 1867), s. 17.

33. If any property answering the description set forth in Pawnbrokers and moneyany information which shall be given by any Police officer changers to to any pawnbroker or dealer in second-hand property, or report stole money-changer, regarding property stolen or fraudulently ensity for obtained, shall then be or thereafter come into the possession neglect. of, or be offered in pawn or for sale or change to, such pawnbroker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest '[policestation,] and shall also state the name and address given by

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.
⁹The words "police-station," in s. 83, were substituted for the words "police-office" by the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act 8 of 1910), s. 12, in Vols III of this

(Secs. 33A-36.)

the party by whom the same was offered, or from whom the same was received:

Provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

Possession or dealing with thing stolen or fraudulently obtained.

133A. (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of any thing declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment or possession:

and, if it appears to the Magistrate that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which may extend to three months.

Manufacture or possession of gunpowder.

- 34. Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.
- 35. (Licenses by Commissioner for sale and deposit of gunpowder, etc.). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.

36. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he

Licenses for conveying and rémoving gunpowder.

¹ Section 88A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 9910), s. 18, in Yol. III of this Code.

(Secs. 37-39.)

may deem advisable; and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

37. The Commissioner of Police, on credible information Commissioner luid before him on oath 1, 2 [and reduced to writing,] may issue warrant to his warrant authorizing a Police-officer [not below the rank search for of Sub-Inspector] to search "any house, shop, magazine or substance other building or place in which he shall have reasonable ground to suspect that any [explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any 's [explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act "[or any other law or any rule made thereunder; and all [explosive substance] found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

38. None of the [three] last preceding sections shall Act not extend to any Government magazine or store, or building for apply to Government magazine or store, or building for apply to Government exthe making or deposit of *[explosive substances] under the plosive substances, or to any *[ex-

plosive substances] belonging to Government.

39. (1) With the previous sanction of the Lieute- Power nant-Governor to, the Commissioner of Police may, after previous Commissioner to make rules publication, from time to time make rules"-

(a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed:

for regulation of traffic, etc.

¹ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-78, Ed. 1909,

¹ As to oaths, see the Indian Oaths Act, 18/3 (10 of 10 to), in the control of this Code.

2 The words "and reduced to writing," in s. 37, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(1), in Vol. III of this Code.

2 The words "not below the rank of Sub-Inspector," in s. 37, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910) s. 14 (2), in Vol. III of this Code.

4 The words "in the day time," in s. 87, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(3), and are omitted.

5 The words "explosive substance" in s. 37, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(4), in Vol. III of this Code.

6 The words "or any other law or any rule made thereunder," in s. 87, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(6), in Vol. III of this Code.

Calcutta and Suburban Police (Amendment) Act, 1919 (Den. Act 8 of 1910), s. 15 (2), in Vol. III of this Code.

'The word "three" in s. 38, was substituted for the word "four" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 15 (2), in Vol. III of this Code.

'The words "explosive anbetances" in s. 88, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 15 (1), in Vol. III of this Code.

'Sections 88, 894. 89B and 89C were substituted for the original section 89 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 16, in Vol. III of this Code.

'Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sob. D, item 1, in Vol. I of this Code.

'Il For a list of rules made under section 89 up to the Sist March, 1912, see the Bengal Bocal Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

(Sec. 39.)

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle or walking, so as to prevent danger, obstruction or inconvenience to the public;

(c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle;

(d) prescribing the number and position of lights to be used on vehicles in streets and public places;

(e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron-girders, beams or bars, boilers or other unwieldy articles, or coal, or bricks, lime or other building materials, through the streets, and the route and hours for such conveyance;

(f) for licensing, controlling, or, in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting, the playing of music in streets or in public places other than public buildings and the precincts thereof;

(g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting, the carrying of any explosive substances in streets or public places;

(h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination;

(i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity; or

(j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein:

Provided that nothing in this section shall affect the pro- 11 of 1878 visions of the Indian Arms Act, 1878, or the Indian Explosives 4 of 1884. Act, 1884'.

^{1 .} Act 11 of 1878 is printed in General Acts, 1868-78, Ed. 1909, p. 690.

(Sec. 39A.)

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescision.

(3) Every rule and alteration of a rule made under this section, and every rescision of any such rule, shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section

shall be liable,-

(i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (I)—to fine which may extend to fifty rupees, or

(ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1)—to imprisonment, with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or

(iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (1)—to fine which may

extend to one hundred rupees.

¹39A. (1) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police-officer of a rank not inferior to that of Sub-Inspector, may, with a view to securing the public safety or convenience, but not so directions as to contravene any rule made under the last foregoing to the section, or the provisions of any license granted under any public. such rule, give all such directions, either orally or in writing, as he may consider necessary to-

(a) secure the orderly conduct of persons constituting processions and assemblies in streets:

(b) prescribe the routes by which and the times at which any such procession may, or may not, pass;

(c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;

(d) keep order on and in all streets, quays, wharves and landing places, and all other public places or places

of public resort; or

(e) regulate and control music, the beating of drums, tomtoms and other instruments, and the blowing or . sounding of horns or other noisy instruments in any street or any public place other than public buildings and the precincts thereof.

(Sec. 39A.)

- (2) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹ whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—
 - (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place;
 - (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments of means of casting or impelling missiles:
 - (iii) the exhibition of persons, corpses, figures or effigies in any public place; and
 - (iv) the public utterance of cries, singing of songs or playing of music.
- (3) The Commissioner of Police may also, subject to the control of the Lientenant-Governor whenever and for such time as he may consider necessary, by notification, publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures or mimetic, representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing, which—
 - (i) may be of a nature to outrage morality or decency;
 - (ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.
- (4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety:

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Lieutenant-Governor.

(5) The Commissioner of Police may also, subject to the orders of the Lieutenant-Governor¹ by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved have under such conditions as may be prescribed by the Commissioner of Police.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Wol. I of this Code.

Secs. 39B, 39C.)

- (6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,-
 - (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees, or
 - (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.
- 139B. (1) Whenever a notification, order in writing or Enforcement public notice has been duly issued under sub-section (2), sub- of orders issued under section (3), sub-section (4) or sub-section (5) of the last fore- the last for going section, then-

- (a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5),-any Magistrate or any Policeofficer, or
- (b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or in the case of an order issued under the said sub-section (4),—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case ofrefusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

¹ 39C. (1) For the purpose of preventing serious disorder Power! or manifest and imminent danger to the persons assembled at direction any place of public amusement, or at any assembly or meeting disord

to which the public are invited or which is open to the public, places of the Police-officer of highest rank, superior to that of Head affineme to make the who is present may subject to such rules, directions etc. Constable, who is present may, subject to such rules, directions. and orders as may have been lawfully made,

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting; and all persons shall be bound to conform to such directions.

(Sec. 40.)

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under subsection (1) shall be liable to fine which may extend to one

hundred rupees.

Penalty for committing in public streets

Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor in any * * street, thoroughfare or place of public resort, shall commit any of the following offences, shall be liable to a fine not exceeding fifty rupees :-

driving, etc., elephant or

(1) whoever shall drive ride or lead any elephant or camel without permission from the Commissioner of Police;

driving vehicle without light;

(2) whoever shall drive any vehicle * *4, at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light

driving otherwise than on left side of road ; (3) whoever, without reasonable cause, shall drive a vehicle otherwise than on the left or near side of the

exposing for show horses, cleaning or repairing conveyances, or training

(4) whoever shall expose for show, hire or sale any horse or other animal, or any carriage, or shall clean or dress any horse or other animal, or shall clean any carriage or other conveyance, or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner:

exposing or Resping articles so as

7 (411) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, item 1, in Vol. I of this Code.

3 The word "public," in s. 40, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

2 The word "road," in s. 40, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

4 The words "of any description" in s. 40(2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 24, and sie omitted.

3 The words "accept when, in the opinion of the Magistrate, there may be sufficient mesmitight to reader such light unnecessary," in s. 40(2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

4 The words "acceptage, cart or other," in s. 40(3), were repealed by the Osicutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

7 Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

7 Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

7 Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

(5 to 9): (ne ligence in driving cattle; leaving cart, etc. without control; obstructing road or thoroughfare ty carriage, etc.; obstructing footway; beating drums, tom-toms, etc.;) Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act, 3 of 1910), s. 34;

(10) whoever shall set fire to or burn any straw or other lighting free matter, or light any bonfire, or wantonly discharge and discharge any fire-arm or air-gun, or let off or throw any fire-work, or send up any fire-balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police;

(11) whoever, by driving a hackery or cart with insuffici-ently greased wheels, shall create a noise which is with manfi-clently reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven;

(12) (illuminations;) Rep by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of *1910*), *s. 34* ;

(13) whoever, without the consent of the owner or occupier, affaing bills shall affix any bill or notice, or any paper, against or otherwise or upon any building, wall, [tree, fence, post, pole bouses, etc.; or other erection,] or shall write upon, deface or mark any such building, wall, '[tree, fence, post, pole or other erection] with chalk or paint, or in any way whatsoever;

(14) whoever shall bathe or wash himself in any street, or in, upon, or by the side of, any public tank, street, reservoir or aqueduct, not being a place set apart for aqueduct such purpose;

(15) whoever shall obstruct or incommode a person bathing obstructing at any place set apart as a bathing place, by wilful bething intrusion, or by using such place as a landing-place, places; or by anchoring or otherwise fastening or keeping boats, or by washing * cattle or dogs, at or near such place, or in any other way;

(16) (cruelty to animals;) Rep. by the Bengal Cruelty to Animals Act, 1869 (Ben. Act 1 of 1869), s. 8;

(17) whoever, in any public * * street, thoroughfare beggan; or place shall beg or apply for aims, or shall expose

These words in square brackets in clause (13) of s. 40 were substitued for the words of 50 the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 7, in The word "Subble," in s. 40(14), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

The word "Access," in s. 40(15), was repealed by the Calcutta and Suburban Police (Amendment) Act, 3210 (Ben. Act 3 of 1912), s. 34, and is omitted.

The word "Acced," in s. 40(17), was repealed by the Calcutta and Suburban Police (Amendment) Act, 3210 (Ben. Act 3 of 1910), s. 34, and is omitted.

(Secs. 40A-42.)

or exhibit any scres, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms; or shall seek for or obtain alms by means of any false statement or pretences:

(18) whoever wilfully and indecently exposes his person. or commits a nuisance by easing himself.

rtain class

(1) The Lieutenant-Governor may, by notification in the Calcutta Gazette, declare any Institution, situated either in the town of Calcutta or in the suburbs thereof, to be a Refuge for the reception of aged, infirm or incurably diseased persons convicted under clause (17) of section 40, and sentenced to imprisonment under section 48 in lieu of payment of any tine imposed under the said section 40;

and may, by like notification, cancel any such declaration.

(2) When any such person is so convicted and sentenced to imprisonment for any term, the Magistrate may, by written order, direct that he be taken to, and detained for the said term in, any Refuge notified under sub-section (1), instead of being imprisoned.

'(3) If any such person escapes, before the expiration of the said term, from a Refuge to which he has been so taken, the Magistrate may cancel the order made under sub-section (1), and may direct that the said person shall be imprisoned, with or without hard labour, for the unexpired portion of the said

term.

Penalty for drunkenness

· 41. Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rapees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

41A. Whoever, in a public place, solicits any person to immorality, to the annoyance of the person solicited or of any two or more of the inhabitants or passers-by, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard

labour, for any period not exceeding eight days.

Stray dogs.

42. It shall be lawful for the Commissioner of Police; by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint,

* Section 40A(1) was inserted by the Calcutta and Suburban Police (Americant) (Ben. Act 8 of 1919), s. 19, in Vol. III of this Code.

**Now the Governor in Council of Fort William in Bengal and the Bengal, Bliman and Assam Laws Act, 1912 (7 of 1912), s. 5, and Soh. D, item 1, in Vol. I of this Code.

For a notification issued under section 40A, see the Bengal Local Statutory Rules at 1913, Vol. 2, Pt. VI.

Sub-sections (2) and (3) of s. 40A were incepted by the Calcutta and Subust (Americant) Act, 1919 (Ben. Act 2 of 1910), s. 20, in Vol. III of this Code.

This section was substituted for the original s. 41 by the Calcutta and Subust (Americant) Act, 1926 (Ben. Act 2 of 1886), s. 2, nos. p. 97.

Section 41A was inserted by the Calcutta and Suburban Police (Amendment) Act. Act 2 of 1895), s. 2, in Vol. III of this Code.

(Secs. 43, 43.1.)

from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

143. (1) Subject to the restrictions imposed by clause (b) Power to of sub-section (1) of section 39B in the case of offences there werent. referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under-

- (a) any section of this Act other than section 41A, or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force,

if such person,-

(i) after being warned by a Police-officer, persists in committing such offence, or

- (ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address. refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law.

² (2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should be fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate having jurisdiction.

*43A. Any Police-officer above the rank of native constable, and such other officer as the Local Government or the for solicitaCommissioner of Police may specially appoint in that behalf, then. may, at the instance of any person aggrieved, arrest without warrant any person who in his sight and in a public place solicits any person to immorality, to the annoyance of the person solicited or of two or more of the inhabitants or passers-by, if the name and address of such person be unknown to him and cannot be ascertained by him then and there.

^{*}This section 48(1) was substituted for the original section 48 by the Calcutta and Suburban Policy Amendment Lact, 1910 (Ben. Act & of 1910), a. 22, in Vol. III of this Code.

This sub-section (2) in a. 48 was insigted by the Calcutta and Suburban Police (Amendment)

Lot, 1910 (Ben. Act & of 1910), a. 23, in Vol. IVI of this Code.

Section 42, was inserted by the Calcutta and Suburban Police (Amendment) Lact, 1945 (Ben. Lact 2 of 1854), a. 5, in Vol. III of this Code.

(Secs. 44-47.)

Arrest nitt respect

44. Whoever commits an offence on or with respect to the person or property of another, or in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorized by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Persons

45. Every person taken into custody without a warrant by a Police-officer under this Act shall be taken to the nearest by a Police-diacet under that such person may be detained without war until he can be brought before the Magistrate or until he shall detained in enter into recognizances, with or without sureties, for his enter into recognizances, with or without sureties, for his police-station appearance before the Magistrate.

> Any person so detained and not entering into recognizances with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Power to take recognizance at policeat police station.

46. Whenever any person shall be brought to a '[policestation] charged with any offence against this Act, it shall be lawful for the officer in charge of such 2 [police-station], or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of geografizance.

47. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting;

and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sumnot exceeding one thousand rupees—thereby acknowledged;

and the time and place of appearance shall be specified in

the said recognizance, or in the condition thereof;

and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear

AThe words "police-station," in s. 45, were substituted for the words "police-station for the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1920), s. 24, in Val. III of this Jode:

his Code:

AThe words "police-station," in s. 46, were substituted for the weeds "station-hos Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Acce of 1910), s. 25, in this Code.

(Secs. 47A, 47B.)

147A. (1) If, in the course of any investigation, the Commission Commissioner of Police has reason to believe that a cognizable of Police to offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer and obtain serving under him not below the rank of Sub-Inspector, who is witnesses. investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid, may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose

him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the Lieutenant-Governor with the previous sanction of the Governor General in Council, the Commissioner of Police may, if he thinks fit, order payment, on the part of the Government, of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment as aforesaid of the reasonable expenses of any person

not so residing who attends as aforesaid.

478. If information is given on oath to the Commis-Power to sioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is tally confined. for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal.

¹ Section 47A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben Act 8 of 1910), a. 25, in Vol. III of this Code.

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assum Lawa Act, 1912 (7 of 1912), a. 3, and Sch. D, item 1, in Vol. I of this Code.

8 Section 47B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Bun. Act 8 of 1910), s. 27, in Vol. III of this Code.

(Secs. 47C-49A.)

Procedure, 1898 , the Commissioner may issue a search-warrant s of 1898. to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

247. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to

attend and witness the search.

(2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under subsection (2), signed by the said witnesses, shall be delivered to

such occupant or person at his request.

Recovery and appropri-ation of fines.

Imprison-ment in lieu

of fine.

Procedure in

making

48. All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by section 61 of the Code of Criminal Procedure, and the amount so levied shall 25 of 1861.

be appropriated to any fund applicable to police purposes:

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realized by recourse to the provisions above mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of 45 of 1860. the Indian Penal Code.

49. (Powers of Joint and other Magistrates). Rep. by Ben. Act 1 of 1874.

Public to be given.

49A. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in

¹ Sections 100 and 552 of the Code of Criminal Procedure (Act 5 of 1898) are printed in Genoral Acts, 1898-1903, Ed. 1909, pp. 78 and 210, respectively.

⁸ Section 47C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 29, in Vol. III of this Code.

⁸ Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872, s. 2, and Sch. V directed that this reference should be deemed to be made to s. 807 of the Act of 1873. Act 10 of 1872 was repealed and re-enacted by Act 10 of 1872 and the latter by Act 5 of 1896 (the present Code Criminal Procedure). In accordance with Act 5 of 1898, s. 8, the reference in the text should now be taken to be made to s. 886, 887 and 889 of that Act. Cf. also the Bengal General Clauses Act, 1899 (Ben. Act of 1899), s. 26, in Vol. III of this Code.

¹⁴ Section 67 of the Indian Penal Code (Act 45 of 1860) is printed in General Acts, 1884-67, Ed. 4aog. n. 261.

^{1909,} p. 261.
Section 49A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 81, in Vol. III of this Code.

(Secs. 49B-51.)

conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

other means ne may unina paradot.

149B. Whenever under this Act or any rule made here-comment, etc. under the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, sioner of opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commission of the Co sioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

*49C. Every license, written permission, notice, or other Stamping of document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 39A, or an order made under sub-section (4) of that section, or an order made under section 47A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

50. The Deputy Commissioner of Police for the town of Powers of Calcutta may, under the orders of the Commissioner, exercise Commissioner all or any of the powers vested in the latter by the provisions

of this Act.

51. The following words and expressions in this Act shall Interpretahave the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :-

the word "property" shall include any chattel, money or valuable security;

the word "person" shall include a corporation; the word "month" shall mean calendar month;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath;

the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine;

"["explosive substance" shall be deemed to include any materials for making any explosive substance; also any

¹ Section 49 B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 21, in Vol. III of this Code.

2 Section 49 C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 22(2), in Vol. III of this Code.

3 The definition of "common gaming-house," which was repealed by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 4 of 1918), s. 5(1/), is omitted.

4 Clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

5 This definition in square brackets, in s. 51, was added by the Calcutta and Suburban, Police Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

(Sec. 51,)

apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part

of any such apparatus, machine or implement;]

["place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from those admitted, otherwise than for a bond fide charitable purpose and shall include a race course, circus, theatre, music-hall, billiard-room, bagatelle-room, gymnasium and fencing-school;

1 [" place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in, or managing, such place; and shall include a refreshment-room, eating-house, coffee-house, tea-shop, liquor-house, boarding-house, lodginghouse, hotel, restaurant, tavern, wine-shop, beer-shop, spiritshop, arrack-shop, toddy-shop, ganja-shop, bhang-shop and

opium-shop;]

1 ["Police-officer" shall mean any member of the Calcutta police force, and shall include the Commissioner of Police and

a Deputy Commissioner of Police;]

1 ["police-station" shall mean any post or place declared generally or specially, by the Lieutenant-Governor, to be a police-station, and shall include any local area specified by

the Lieutenant-Governor in this behalf;]

'["public place" shall include the banks of the river, the docks, the jetties, warehouses to which the public have access. every public building and monument and the precincts thereof and all places accessible to the public for drawing water, wash-

ing or bathing, or for purposes of recreation;]
["street" shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access:

¹ These definitions in square brackets in a. 51, were added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act B of 1910), a. 4, in Vol. III of this Code.
⁸ Now the Governor in Council of Fort William in Bengal—set the Bengal, Bihar and Orisaa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1886.

(Sec. 52.—Form of Certificate.)

1["vehicle" shall include any locomotive, automobile, tramcar, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description capable of being used on the streets.]

52. (Act 21 of 1857 repealed in suburbs). Rep. by the Repealing and Amending Act, 1903 (1 of 1903); now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

FORM OF CERTIFICATE.

(Referred to in section 8.)

A. B. has been appointed a member of the Calcutta Police force, and is vested with the powers, functions and privileges of a Police-officer.

Commissioner of Police.

CALCUTTA;

The

, 19

¹ This definition in square brackets, in s. 51, was added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 4, in Vol. III of this Code.

⁸ This form of certificate was substituted for the original form by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 83, in Vol. III of this Code.

BENGAL ACT 3 OF 1866

THE BENGAL LEGISLATIVE COUNCIL (WITNESSES) ACT, 18667.1

(28th March, 1866.)

An Act to provide for the attendance and examination of witnesses before the Council of the [Governor of Fort William in Bengal] 2 for making Laws and Regulations.

Whereas it is expedient to make provision for the attend- Preamble. ance of witnesses before the Council of the [Governor of Fort William in Bengal] 2 for making Laws and Regulations and for the examination of such witnesses; It is enacted as follows -

1. It shall be lawful for the [Governor of Fort William in Power to Bengal] by a summons under the hand of the Secretary or summon persons to Assistant Secretary to the Government of Bengal in the appear. Legislative Department for the time being,

to require the attendance before the Council of the [Governor of Fort William in Bengal] for making Laws and Regulations, at a time and place to be mentioned in such summons, of any person, residing within any of the provinces or places subject to the Government of the [Governor of Fort William in Bengal] whose evidence shall, in the judgment of such Council, be material with reference to any project of Law, Bill or Act then under consideration by such Council,

and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear necessary for obtaining information as to the matter so under consideration:

and every person so summoned shall, according to the exigency of the summons, attend before the said Council, and produce such books, deeds and writings as shall be in his power. custody or control.

2. It shall be lawful for the said Secretary' or Assistant Administra-Secretary' to the Government of Bengal in the Legislative oath or

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903 -vide Act 10 of 1914, Sch. II. LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1886,

p. 258.

LOOAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see s. 1
The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts
Begulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

The words in square bracets were substituted for the words "Lieutenant-Governor of Bengal" by the Bengal Law Act, 1914 (Ben Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

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The Michael Law Act, 1914 (Ben Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

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The Michael Law Act, 1914 (Ben Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

The Michae

(Secs. 3, 4.)

Department for the time being, or any other officer appointed in that behalf by the [Governor of Fort William in Bengal]1 to administer an oath or affirmation, in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid.

But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so

given.

Powers against persons failing to appear, etc.

3. If any person, upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode,

shall, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]), fail to appear before the said Council at the time and place mentioned in the summons, or

shall refuse to make oath or affirmation as required,

shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or

shall refuse or fail, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]), to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not),

the [Governor of Fort Willam in Bengal] shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination.

The warrant may be directed to any officer appointed in that behalf by the [Governor of Fort Willam in Bengal].1

4. Whenever a summons is issued for the attendance of a witness under this Act, the [Governor of Fort William in Bengal] may, if he thinks fit, order such witness to receive from the Collector or Commissioner of the district or division in which the witness resides such expenses as he would have

¹ The words in square brackets were substituted for the words "Lieutenant-levernor" the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this her to cathe and affirmations, see the Indian Oaths Ast, 1878 (10 of 1878), in General Acts, 38.75, Rd. 1907 p. 385.

The words in square brackets were anbatituted for the words "Lieutenant-Governor all the words in square brackets were anbatituted for the Bongal Laws Act, 1914 (Ren. Act 1 of 1914), s. 5 and Sch. III, in Yel. III of this

of 1886.]

(Secs. 5, 6.)

been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing.

5. The provisions of sections 21 and 32 of Act 2 of 1855 Provisions of (for the further improvement of the Law of Evidence) shall and 82 of Act extend to witnesses examined before the said Council of the 2 of 1856 [Governor of Fort William in Bengal].

6. Throughout this Act, unless the contrary appears from Interpreta-

the context,-

the word "Council" shall include any committee of the "Council." whole Council, and any Select Committee of the Council of the [Governor of Fort William in Bengal]' for making Laws and Regulations.

1 These sections are as follow:—

"21. A witness whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person, who would not be bound to produce it if in his own possession.

"32. A witness shall not be excused from answering any question relevant to the matter in issue un any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate, such witness, or that it will expose, or tend, directly or indirectly, to expose, such witness to a penalty or forfeiture of any kind.

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal researcher."

subject him to any arrest or prosecution, or ne used as evacence against and a proceeding."

Act 2 of 1855 has been repealed by the Indian Evidence Act, 1872 (1 of 1872,—printed in General Acts, 1868-78, Ed. 1968, p. 200), which does not expressly save references to the first-mentioned Act; but this reference to the Act of 1855 appears to be unaffected by the repeal—see Craise on Statuse Law, 1911, pages 822, 323.

The words in square brackets were substituted for the words "Lieutenant-Governor of Bengal" by the Bengal Laws Act, 1914 (Bon. Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

Bengar by the Bengal Land Code.

* Words as to number and gender, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), a. 14, in Vol. III of this Code.

BENGAL ACT 4. OF 1866

(THE CALCUTTA POLICE ACT, 1866).

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of 1966.]

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- 102C. Stamping of signature. 103. (Repealed.)

SCHEDULE OF FORMS.

Form A.

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BENGAL ACT 4 OF 1866

(THE CALCUTTA POLICE ACT, 1866).1

(28th March, 1866.)

An Act to amend and consolidate the provisions of Act 13 of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay) and of Act 48 of 1860 (to amend Act 13 of 1856).

Whereas it is expedient to amend and consolidate the Preamble. provisions of Act 13 of 1856 and of Act 48 of 1860, so far as the said Acts are applicable to the town of Calcutta; It is enacted as follows :-

1. This Act may be cited as the Calcutta Police Act, 1866.

Short title.

2. (Repeal of Acts 13 of 1856 and 48 of 1860 in Calcutta). Rev. by the Repealing Act, 1873 (12 of 1873).

3. The following words and expressions in this Act shall Interpretahave the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):-

the words "town of Calcutta" shall include all places within the local limits of the jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal;

the word "Magistrate" shall mean any Magistrate of Police acting for the said town;

the word "property" shall include any chattle, money or valuable security;

the word "month" shall mean calendar month;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath;

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, page 2002.

LOCAL EXTENT.— This Act extends only to the town of Calcutta—see the preamble and ss. 1,

LOOAL SATEST.— THE ACT EXPENDE ONly to the town of Chicutta—wee the presence and 8s. 1, 8 and 4.

OTHER SNACTMENTA.—For other enactments relating to the Calcutta Police, sec.—

(1) the Calcutta Port Act, 1890 (Ben. Act 8 of 1890), ss. 129 to 184 and 140, pust, pp. 1058, 1054 and 1056:

(2) the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code.

the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code;
 the Protection of Muhammadan Pilgrims Act, 1896 (Ben. Act 1 of 1896), in Vol. III of this Code;
 the Calcutta Police Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code;
 the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), ss. 643, 644, in Vol. III of this Code; and
 the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911), s. 157, in Vol. III of this Code;

Code. Code.

Show "Presidency Magistrate"—ses the Code of Criminal Procedure, 1898 (5 of 1898), a. S (S), in General Acts, 1898–1908, Ed. 1999, p. 40. · · · · · · · · · · · ·

(Sec. 3.)

1" gaming" includes wagering or betting [except wagering or betting upon a horse-race, when such wagering or betting takes place-

(a) on the day on which such race is to be run, and

(b) in an enclosure which the Stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

"instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on

or facilitating, gaming; and

1" common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever;

the word "cattle" shall, besides horned cattle, include

horses, asses, mules, sheep, goats and swine;

the phrases "investigation," "offence," "cognizable offence" and "non-cognizable offence" shall respectively have the meanings assigned thereto by the Code of Criminal Procedure, 18984;

"officer in charge of a police-station" shall include, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the Police-officer present at the station-house who is next in rank to such officer and is above the rank of

"explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement:

¹ These definitions of "gaming," "instruments of gaming" and "common gaming-house" in s. 5 were substituted for the former definitions by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 4 of 1918), s. 2, in Vol. III of this Code.

1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1898 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code. Act 1 of 1908 is now known as the Amending Act, 1908—wide Act 10 1906 (1 1907). This Code. Act 1 of 1898 is now known as the Amending Act, 1908—ride Act 1 of 1899), s. 14, in Vol. III of this Code.

2 These definitions in s. 8 were added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 8, in Vol. III of this Code.

4 Act 5 of 1898 is printed is General Acts, 1898-1908, Ed. 1909, p. 40.

2 This definition in s. 8, was added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

"place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from those admitted, otherwise than for a bond fide charitable purpose; and shall include a race-course, circus, theatre, music-hall, billiard-room, bagetelle-room, gymnasium and fencing-school;

"place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted. and where any kind of food, drink or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in, or managing, such place; and shall include a refreshment-room, eating-house, coffee-house, tea-shop, liquor-house, boarding-house, lodging-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, ganja-shop, bhang-shop, and opium-shop;

"Police-officer" shall mean any member of the Calcutta Police-force, and shall include the Commissioner of Police and

a Deputy Commissioner of Police;

"police-station" shall mean any post or place declared. generally or specially, by the Lieutenant-Governor to be a police-station, and shall include any local area specified by the Lieutenant-Governor in this behalf;

""public place" shall include the banks of the river, the docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof, and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation;

"street" shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right

" "wehicle" shall include any locomotive, automobile, tramcar, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description

capable of being used on the streets.

4. The administration of the police in the town of Calcutta Appointment shall be vested in an officer to be styled the Commissioner of of Commissioner of of Commissioner of the Commissio Police for such town, who shall from time to time be appointed slong. by the Lieutenant-Governor of Bengal and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

J These definitions were added by the Calcutts and Suburban Police (Amendment) Act, 1910 en. Act 3 of 1910), s. 4, in Vol. 111 of this Code. 3 Now the General in Conneil of Fort William in Bengal—see the Bengal, Bihar and Origea and Assam Laws Act, 1863 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

^ (Secs. 5-9.)

deputies

be a Magis-

Commissioner

to be Justice of the Peace,

but to act

only in certain

irate.

5. The said Lieutenant-Governor may from time to time appoint' one or more deputies to the Commissioner of Police. who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioner may be removed at any time by

order of the said Lieutenant-Governor 1. Commissioner shall not ordinarily

6. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office when the said Lieutenant-Governor for special reasons may deem it expedient.

7. The Commissioner of Police shall be appointed a Justice of the Peace , but unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police, and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The deputies to the Commissioner of Police may be appointed Justices of the Peace, ' and, if so appointed, shall act in that

capacity subject to the above restriction.

8. For the said town of Calcutta there shall be a Policeforce, which shall consist of such number of officers and shall be otherwise constituted in such manner as shall be from time to time ordered by the said Lieutenant-Governor1

Constitution of Police-

> 9. The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the approbation of the said Lieutenant-Governor 1 frame such orders and regulations 9 as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, the description of arms, accoutrements and other necessaries to be furnished to them, and all such other orders and

Police to be under control of Bules for governme of police to be made by

The words "with the sanction of the Governor General of India in Council," in a. 8, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1916 (Ben. Act 8 of 1910), s. 34, and are contited. For some regulations made under section 9—see the Bengal Local Statutory Rules and Orders, 1915, Vol. I, Pt. VI.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Schedule D, item 1, in Vol. I of this Code.

§ For an order made under section 5, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ This reference is to section 22, which has been repealed—see post, p. 97. Presidency Magistrates are now appointed under the Code of Criminal Procedure, 1898 (5 of 1898), s. 18—see General Acts, 1898-08, 8d. 1999, p. 48.

§ Justices of the Peace of the Presidency towns are now appointed under the Code of Criminal Procedure, 1898 (5 of 1898), s. 23—see General Acts, 1898-08, Bd. 1999, p. 50.

§ New "Presidency Magistrate"—see the Code of Criminal Procedure, 1898 (6 of 1896), s. 3(8) in General Acts, 1893-08, Bd. 1999, p. 40.

§ The words "and man," in a.8, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

§ For an order made under a.8, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 10, 10At)

regulations relative to the said Police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

10. The appointment of the members of the Police-force Appoints shall rest with the Commiss oner of Police; and he may at any police to time suspend or dismiss any member of the force whom he commiss shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

110A. (1) It shall be the duty of every Police-officer—

- (a) promptly to serve every summons and obey and officer execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view:

(c) to the best of his ability to prevent the commission of public nuisances;

(d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason;

(e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

(f) to discharge such duties as are imposed upon him by any law for the time being in force;

(g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves;

(h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his. condition;

(i) to arrange for the proper sustenance and shelter of

every person who is under arrest or in custody;

¹ Section 10A. Was inserted by the Calcutta and Suburban Police (Amendment) Act, 1929 (Sen. Act 8 of 1910), a. 5, in Vol. III of this Code.

(Deve. 11-12.)

(j) in conducting searches, to refrain from needless rudeness and the causing of unnecessary adnoyance;

 (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness;

(1) to use his best endeavours-

(i) to prevent any loss or damage by fire, and

(ii) to avert any accident or danger to the public;

(m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act, or under any other law for the time being in force for observance by the public in or near the streets;

(n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of

public worship;

(o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat; and

(p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein pres-

cribed.

- (2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.
- (3) A Police-officer may restrain or remove any person resisting, or refusing or omitting to conform to, any such direction or of processid

tion as aforesaid.

Power to an members of Police-force.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

12. (Additional penalties for neglect of duty, etc.). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910

(Ben. Act 3 of 1910), s. 34.

13. Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a [Police-officer].

Mambers to receive certificates vesting then with powers of Policeofficer.

¹ The words "Polise-officer" in s. 18 were substituted for the word "Constable" by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 6, in Vol. III of this Code.

(Secs. 13A-19C.)

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

13A. The Commissioner or a Deputy Commissioner of Police-officer Police shall not, without the permission of the Lieutenant-from other Governor and a Police-officer of lower rank than that of Deputy purpleyment. Commissioner shall not, without the permission of the Commissioner of Police.

either as principal or agent,—

(a) engage in any trade, or

(b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs, of Calcutta or of any interest therein, or

(c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

13B. Any Police-officer who-

(a) contravenes any provision of the last foregoing section, or

(b) is guilty of cowardice, or

(c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or

(d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

13C. Any Police-officer who-

(a) without lawful authority or reasonable cause, enters or entry, search searches, or causes to be entered or searched, any building, vessel, tent or place, or

(b) vexatiously and unnecessarily seizes the property of any person, or

(c) vexatiously and unnecessarily detains, searches or arrests any person, or

(d) vexaciously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or

(e) offers any unnecessary personal violence to any person in his custody, or

Vexations seizure, arrest detention, etc., by Police-officers.

¹ Sections 18A, 18B and 18C were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 7, in Vel. III of this Code.

**The the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Absam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

**The Code of the C

(Secs. 14-17.)

(f) holds out to an accused person any threat or promise not warranted by law,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may

extend to five hundred rupees, or to both.

Members not to resign without leave or notice. 14. No member of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention, if a member of the mounted branch of the said force, and two months' notice if a member of any other branch;

and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for

any term not exceeding two months.

False statement to obtain' employment or release. 14A. Any person who knowingly makes a false statement or uses a false document, for the purpose of obtaining for himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, or to both.

Penalty for dismissed members not delivering up elothing, accourtements, etc. 15. Every member of the Police-force who shall be dismissed from, or shall cease to hold and exercise, his office and who shall not forthwith deliver up his certificate, and all the clothing, accourtements and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place, as shall be directed by the said Commissioner, shall be liable on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accourrements, appointments and other necessaries which shall not be so delivered over, wherever the same

may be found.

16. (Police Superannuation Fund). Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben.

Act 6 of 1905).

17. (Disposal of proceeds of certain fines, etc.). Rep. by the Calcutta and Suburban Police (Suverannuation Fund) Act, 1890 (Ben. Act 1 of 1890), s. 3.

limention 14A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act S of 1910), a.c., in Vol. III of this Oods.

(Secs. 18-24.)

18. The Commissioner of Police may, of his own authority, appoint appoint special constables to assist the Police-force on any special special constables.

temporary emergency.

19. Every special constable so appointed shall have the Powers of same power, privileges and protection, and shall be liable to special constables perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

20. If any person, being appointed a special constable as Penalty aforesaid, shall, without sufficient excuse, neglect or refuse to contable contable. serve as such, or to obey such lawful order or direction as may reglecting refusing to be given to him for the performance of his duties, he shall be serve, etc. liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

21. The Commissioner of Police may also, if he shall think Appointment of additional fit, on the application of any person showing the necessity of constables on it, appoint any additional number of constables to keep the application of peace at any place within his jurisdiction, at the charge of the individuals. person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constables belonging to the Police-force:

Provided that the person upon whose application such Proviso. appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional constables; and all moneys received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

21A. (1) Subject to the control of the Lieutenant-Govern- Constitution

or' the Commissioner of Police shall, by order,-

(a) constitute such and so many Police divisions as he thinks fit, and

(b) sub-divide such divisions into such and so many sections as he thinks fit, and

(c) define the limits and extent of such divisions and

(2) Every such order shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

22 to 24. (Police districts; appointment of Police Magistrates; attendance of Police-officers at Police-Courts; service

of divisions

¹Section 31A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1912), s. 9, in Vol. III of this Code.

⁸Now the Governor in Connell of Fort William in Bengal—see the Bengal, Bihar and Grissa and Assam Laws Act, 1913 (7 of 1912), s. 3, and Sob. D, item 1, in Vol. I of this Code.

(Secs. 25-32.)

of Criminal process by Police-officers). Rep. by the Presidency

Magistrates Act, 1877 (4 of 1877).

Execution of warrants.

25. When any warrant shall be directed or delivered to any 1 [officer of the Police force], unless the authority issuing it shall order that it be executed without delay, such Policeofficer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same; and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection, as if the same had been originally directed to him by name.

26 to 28. (Offences summarily triable by Magistrates; summary jurisdiction of two Magistrates; restitution of stolen property). Rep. by the Presidency Magistrates Act,

1877 (4 of 1877).

Wrongfully intering or remaining in on building, land, vehicle, etc.

Apprehension and punish-ment of re-

puted thieves,

²29. Whoever, without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises, or any land or ground attached thereto, or any ground, building, monument or structure belonging to the Government or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

30, 31. (Order of maintenance for wife or child; restoration of woman or child detained for unla vful purpose). Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).

32. Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with

intent to commit any criminal act;

any reputed thief found between sunset and sunrise on board any vessel or boat, or lying or loitering in any bazar, street, * * yard, thoroughfare, or other place who shall not give a satisfactory account of himself;

any person found between sunset and sunrise having his face covered or otherwise disguised, with intent to commit any

offence:

any person found between sunset and sunrise in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein: and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking,

may be taken into custody by any Police-officer without a warrant, and shall be liable, on summary conviction before a

¹ These words in square brackets in a. 25 were substituted for the words "such officer" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, Vol. I of this Code.

² This section was substituted for the criginal s. 29 by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act S of 1910), s. 10, in Vol. III of this Code.

³ The word "road" in s. 53 was repealed by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act S of 1970), s. 35, and is omitted.

(Secs. 33-35.)

Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months.

b of 1869.

33. Whoever, not being amenable to '[the Naval Discilater pline Act, the Army Act' or the Indian Articles of War'] takes, into barrecks or attempts to take, into Fort William at Calcutta, or into any or on board military barracks, guard-rooms or encampments within the town of Calcutta, or on board or alongside of any vessel of war belonging to Her Majesty in the port of the said town, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the Com-manding Officer (unless such articles are intended for some person above the rank of non-commissioned officer), shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

34. Whoever takes, or attempts to take, without due per-Penalty mission, or throws or attempts to throw, into any jail or house spirits, etc. of correction, or into any public hospital, any spirits or into jail. spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

35. Whoever, in the town of Calcutta,

has or keeps any hotel, tavern, punch-house, ale-house, Penalty arrack or toddy-shop, or place for the sale or consumption of hotel, etc., gania, chandu or other preparations of opium, hemp or other without intoxicating drug, plant or substance,

or has or keeps any coffee-house, boarding-house, eatinghouse, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere),

without a license, to be obtained in the manner hereinafter mentioned.

shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license:

¹ These words in square brackets in s. 88 were substituted for the words "the Articles of War for Her Majesty's Army or Her Majesty's Navy, or for the Native Officers or Boldiers in Her Majesty's Indian Army" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II in Vol. 1 of this Code.

Printed in the Collection of Statutes relating to India, 9518, Vol. 1, p. 580.

a Act b of 1869 has been repealed and re-caused by the Indian Army Act, 1971 (8 of 1971), and this reference should how be construed as a reference to the Indian Army Act, 1971 (8 of 1971), Act, 1897 (10 of 1897), s. 8, General Acts, 1857-97, Ed. 1909, p. 572.

(Secs. 36-38.)

Provided that nothing in this Act shall apply to the sale in reasonable quantities of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

Excisenot to be granted without rtificat of Commis-

36. No license shall be granted under the provisions of Act 11 of 1849 (for securing the Abkari-revenue of Calcutta) 1 unless the person applying for such license shall produce a certificate from the Commissioner of Police stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police.

IThe Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Governor 3].

Duration and conditions of license.

37. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor³, to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting or using the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Act 11 of 1849 shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any signboard or other notice which such person might have been theretofore bound, under the conditions of his said license.

¹ Act 11 of 1849 was repealed by the Bengal Excise and Liceusing Act, 1878 (Ben. Act 7 of 1878), which has been repealed and re-enacted by the Bengal Excise Act, 1809 (Ben. Act 5 of 1809), and this reference should now be construed as a reference to the latter Act—see s. 6 (2) thereof, in Vol. III of this Code.

These words in square brackets in s. 86 were substituted for the words "subject to the order and control of the Lieutenant-Governor of Bengal" by the Calcutta and Suburban Police (Ameadment) Act, 1910 (Ben. Act 5 of 1910), s. 11, in Vol III of this Code.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bithar and Origea and Assam Laws Act, 1912 (7 of 1912), s. 8, and Schedule D, item 1, in Vol. I of this Code.

To conditions prescribed under sections 57, 88 and 88, made for Bengal as constituted on the Sist Mürch 1918, see the Bengal Excise Manual, 1910, Vol. II, pp. 98 to 196.



(Secs. 39-42.)

to affix on or near the house or place of public resort or entertainment for which such license had been granted: and any person who shall fail to obey any such order forthwith shall be liable, on summary conviction before a Magistrate, to a fine of ten rupees for every day thereafter during which he shall so fail.

39. The Commissioner of Police may, at his discretion, Commisfrom time to time, grant licenses to the keepers of sales of public resort and entertainment as aforesaid for grant licenses or places of public resort and entertainment as aforesaid for grant licenses for which no from time to time, grant licenses to the keepers of such houses sioner of Police may required upon such conditions, to be inserted in every such incense, as he, with the sanction of the said Lieutenant-Governor from time to time shall order, for securing the good Excise Act. behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any time not exceeding one year.

'40. Any person committing a breach of any of the con- remaity top ditions which, in accordance with section 37 of this Act, are included in a license granted under the said Act 11 of Hoense. 1849, or of any of the conditions subject to which a license is given under section 39 of this Act, shall, on summary conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees; and such ffne shall be recovered from the person licensed, notwithstanding that such breach may have been caused by the default or carelessness of the servant or other person in charge of the shop or place of sale.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police. subject to to the direction and control of the said Lieutenant-

41. For every certificate or license granted by the Commist. Fee for sioner of Police under this Act there shall be levied a fee of license. two rupees.

42. Whoever, in any place within the said town, wilfully Penalty for harbours or conceals any seamen or apprentice belonging to any and concealing vessel other than a vessel of the Navy of the Queen; knowing, describer from or having reason to believe, such seamen or apprentice merchantto be a deserter, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred

¹Act 11 of 1849 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878), which has been repealed and re-enacted by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and this reference should now be construed as a reference to the latter Act—ses s. 6 (2) thereof, in Vol. III of this Code.

III of this Code.

So conditions prescribed under sections 87, 88 and 39, made for Bengal as constituted on the Sist March 1912, see the Bengal Excise Manual, 1910, Vol. II. pp. 98 to 100.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

This section was substituted for the original s. 40 by the Calcutta Police (Amendment) Act, 876 (Ben. Act 3 of 1878), s. 19, peet, p. 307.



(Soos. 43, 48A.)

Power to order discontinuance of use of house, room or place as bro-thel, disorderly house or place of assig-nation in cer-

- 143. (1) When the Commissioner of Police information that any house, room or place
 - (a) is used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding-house, hostel or mess used or occupied by students, or of any place of public worship or recreation, or

(b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity, or

- (c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified? in this behalf by the Lieutenant-Governor on the recommendation of the Municipal Commissioners, or
- (d) is used as a common place of assignation,

he may cause a notice to be served on the owner (if in occupation), lessor, manager or occupier of the house, room or place to appear before him either in person or by agent on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be passed for the discontinuance of such use of the house, room or place.

(2) If on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Cmmissioner of Police is satisfied, after making such inquiry as he deems fit, that the house, room or place is used as described in clause (a), clause (b), clause (c) or clause (d) of sub-section (1), as the case may be,

he may, by written order, direct such owner, lessor, manager or occupier, within a period to be stated in such order, not less than ten days from the date thereof, to discontinue such use.

(3) For the purposes of an inquiry under sub-section (2), the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.

(4) The decision of the Commissioner of Police that a house. room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.

143A. If any person against whom an order has been passed by the Commissioner of Police under sub-section (2) of

These sections 48, 48A; 48B and 48C were substituted for the original section 48 by Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), a. 82, in Yol. II the this Code.

3 For a list of notifications issued under section 48(c) up to the 31st March, 1912, or Bengal Local Statutory Rules and Orders, 1912, Yol. I. Pt. VI.

3 Now the Governor in Council at Fort William in Bengal—set the Bengal, Bibar and Orlean Laws the Bengal, Bibar and Orlean Council at Statutory Rules and Sch. D, item I, in Yol. I of this Lode.

(Secs. 48B-44.)

one preceding section uses the house, room or place in a manner which contravenes such order after the period stated therein, he shall be punished, on summary conviction before a Magistrate, with a fine which may extend to twenty-five rupees for every day after the expiration of the said period during which the breach continues and shall, on second conviction, be liable to simple imprisonment which may extend to three months in addition to, or in lieu of, any fine which is imposed under this section.

¹43B. Notwithstanding anything contained in any other Power of law for the time being in force, the owner or lessor of any owner or house, room or place, against the lessee, tenant or occupier of determine which an order has been passed directing the discontinuance tenancy. of the use thereof as a brothel or disorderly house or for the purposes of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith

to determine such lease, tenancy or occupation.

143C. (1) The Commissioner of Police may, upon complete plaint made to him in writing by any person, by written order continuance. direct the discontinuance in any place of music or singing, of music in the beating of drums or tom-toms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood:

Provided that in any case where the discontinuance of music or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall

give effect to any such alteration or reversal:

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

44. Whoever, being the owner, occupier, or having the use Penalty for of any house, room or place, opens, keeps or uses the same as a wing or keeping, or common gaming-house,

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, etc. kept or used by any other person as a common gaminghouse,

being employed in a

(Secs 45-47.)

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so opened, kept or used,

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place,

shall be liable, on summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour, for any term not exceeding three months.

renally for being found playing in gaming-hous 45. Whoever is found in any such house, room or place playing or gaming with cards, dice counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

46. If the Commissioner of Police or a Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house,

or Magistrate
may grant
warrants to Police-officers
to enter gaming-house for
search and
seizure.

Commissioner

he may. by his warrant, give authority to any [Sub-Inspector] or superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

Common gaming-bouse.

47. When, under the provisions of the last preceding section, any cards, dice, gaming table or cloth, board or other instruments of gaming, are found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house and that the persons found therein were there present for the

^{. 1} This word "Bub-Inspector," in s. 46, was substituted for the word "Inspector" by the Calcutta and Substitute Americant Act, 1807 (Ben. Act 5 of 1907), s. 4; in Vol. III of this Code.

. 1000:]:

(Sec. 48-53.)

purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

48. On conviction of any person for keeping any such com- on conviction mon gaming-house or being present therein for the purpose of common gaming, all the instruments of gaming found therein shall be gamingdestroyed by order of the Magistrate, who may also order all or instruments any of the securities for money and other articles seized, not of gaming to be destroyed, being instruments of gaming, to be sold and converted into etc. money, and the proceeds thereof, with all money seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

49. It shall not be necessary, in order to convict any Proof of person of keeping a common gaming-house or of being concern- playing for ataken ed in the management of any common gaming-house, to prove unnecessary. that any person found playing at any game was playing for any

money, wager or stake.

50. Any person person who shall have been concerned in Witnesses indemnified. gaming contrary to this Act, and who shall be examined as a witness before a magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, . shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

¹50A. Nothing in sections 44 to 50 shall apply to any Exemption

game of mere skill, wherever played.

51. The Magistrate may direct any portion * * of Portion of any fine which shall be levied under sections 44 and 45 of this fine may be Act, or any part of the monies or proceeds of articles seized and informer. ordered to be forfeited under section 48, to be paid to *[any

person who has contributed in any way to the conviction].

52. (Gambling in the streets). Rep. by the Bengal Public Gambling Act, 1867 (Ben. Act 2 of 1867), s. 17. See now section 11 of that Act (post, p. 138), which is declared by section 16 therof to apply to the town and suburbs of Calcutta.

53. If any property answering the description set forth in Pawn any information which shall be given by any police-officer to any chang pawnbroker or dealer in second-hand property, or money-report stolen changer, regarding property stolen or fraudulently obtained, under penalty shall then be or thereafter come into the possession of, or be for neglect. offered in pawn or for sale or change to, such pawnbroker,

of games of mere skill.

¹ This new section 50A was inserted by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 8 of 1918), s. 8 (2), in Vol. III of this Code. Cf. Ben. Act 2 of 1867 s, 11A.

² The words "not exceeding one-fourth," in section 51, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 5 (a), and are omitted.

³ These words in square brackets in section 51 were substituted for the words "an informer" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 5 (5) in Yel III of this Code. III of this Code.

(Secs. 54-55.)

dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest police-station, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty, to be imposed by a Magistrate on summary conviction, not exceeding fifty rupees for each and every such neglect or offence:

Provided always that, in the case of wearing-apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly

concealed by such pawnbroker or dealer.

Taking pledge from child under age of fourteen.

or dealing

with thing

fraudulently

54. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or, without the knowledge and consent of the owner of the article, buys from any child any article whatsoever, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

154A. (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulenty obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent or

servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment or possession;

and, if it appears to the Magistrate that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which may extend to three months.

55. The Commissioner of Police shall keep in his office standard weights and measures; and weights and measures

Standard reights and

² Section 54A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 18, in Vol. III of this Code.

Als to duty of Commissioner of Police under s. 55 to keep certified measures of the standard part, desidered too and standard into under the Measures of Length Act, 1869 (2 of 1869), see s. 7 of that Act in Undertal Acts, 1867-97, Ed. 1909, p. 117.

(Secs. 56-60.)

shall be held to be false when they do not agree with such standards.

56. Any Inspector or superior officer of police may enter Powers of any shop or premises for the purpose of inspecting the weights etc., to enter and measures, and instruments for weighing, kept or used shops to esta therein, and may seize any weight, measure or instrument for and measures.

weighing which he may have reason to believe is false.

57. Whoever manufactures gunpowder, or, without a Mendicuture license from the Commissioner of Police, has in his possession, of gunpowder in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable, on a summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

58. (Licenses by Commissioner for sale and deposit of gunpowder, etc.). Rep. by the Calcutta and Suburban Police

(Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.

59. The Commissioner of Police may grant to any person Licenses for a license for the transit and carrying of gunpowder from one conveying and removing place to another, in such manner and in such quantity as he gampowder. may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound for one place to another, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

60. The Commissioner of Police, on credible information commissioner laid before him on oath 1, 2 [and reduced to writing], may issue warrant to his warrant authorizing a Police-officer [not below the rank of Sub-Inspector] to search any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any [explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any [explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act '[or any other law or any rule made thereunder]; and all '[explosive substance] found in such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

As to oaths, see the Indian Oaths Act, 1878 (10 of 1878), in General Acts, 1868-78, Ed. 1909,

As to catas, see the Indian Oatha Act, 1878 (10 of 1878), in General Acts, 1863-78, Ed. 1909, p. 285.

The words "and reduced to writing", in s. 60, were inserted by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 14 (1), in Vol. III of this Code.

The words "not below the rank of Sub-Inspector", in s. 60, were inserted by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 14 (2), in Vol. III of this Code.

4The words "in the day time", in s. 60, were repealed by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 14 (8), and are omitted.

The words "arphwire sabstance", is s. 60, were substituted for the word "gunpo wder" by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 12 (4), in Vol. III of this Code.

The words "arphwire sabstance", is s. 60, were substituted for the word "gunpo wder" by the Calcutta and Saburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 12 (4), in Vol. III of the words "are any other law or any rule made theseunder", in s. 60, were inserted by the Calcutta and Suburban Police (Avendment) Act, 1910 (Ben. Act 8 of 1920), s. 14 (5), in Vol. III of this Code.

(Secs. 61, 62.)

Act not to apply to Government explosive substances.

Power of Commissioner to make rules for regulation

of traffic, etc.

61. None of the '[three] last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of '[explosive substances] under the authority or for the use of the Government, or to any 2 [explosive substances] belonging to Her Majesty.

³62. (1) With the previous sanction of the Lieutenant-Governor4 the Commissioner of Police may, after previous

publication, from time to time make rules -

(a) for licensing and controlling persons offering themselves for employment at quays, wharves or landingplaces for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed;

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle, or walking, so as to prevent danger, obstruction or inconvenience to the public:

(c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or

cattle;

(d) prescribing the number and position of lights to be used on vehicles in streets and public places;

(r) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles, or coal, or bricks, lime or other building materials, through the streets, and the route and hours for such conveyance;

. (f) for licensing, controlling, or, in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than

public buildings and the precincts thereof;

(g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places;

¹The word "three", in s. 61, was substituted for the word "four" by the Calentta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 15 (2), in Vol. 1II of this Code.

⁸The words "explosive substances", in s. 61, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 15 (7), in Vol. 2II of this Code.

⁸These sections 63, 63A, 62B and 62C were substituted for the original s. 62 by the Calcutta and Suburban Palice (Amendment) Act, 1910 (Ben. Act 3 of 1910), s 16, in Vol. III of this Code.

Calcutta and concurred a manufacturity of the Bengal and Orissa of Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assan, Lawa Act, 1912 (7 of 1912), s. 8, and Sch. D., item 1, in Vol. I of this Code.

* For a list of rules made under s. 52 up to the Slet March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of.'1966.1.

(Sec. 62A.)

- (h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination;
- (i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity; or
- (*) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and

the prevention of disturbance therein:

l of 1878. of 1881.

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 18781, or the Indian Explosives Act, 1884.2

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section

shall be liable,-

- (i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (1)—to fine which may extend to fifty rupees, or
- (ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1)—to imprisonment, with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or

(iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (1)—to fine which may extend to one hundred rupees.

*62A. (1) The Commissioner of Police, and, subject to remain the orders of the Commissioner of Police, every Police-officer and other of a rank not inferior to that of Sub-Inspector, may, with a office

to the public.

Printed in General Acts, 1868-78, Ed. 1909, page 690.
 Printed in General Acts, 1879-86, Ed. 1909, page 459.
 See foot-note on p. 108, aute.

(Sec. 62A.)

view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section, or the provisions of any license granted under any such rule, give all such directions, either orally or in writing, as he may consider necessary to—

- (a) secure the orderly conduct of persons constituting processions and assemblies in streets;
- (b) prescribe the routes by which and the times at which any such procession may, or may not, pass;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be througed or liable to be obstructed:
- (d) keep order on and in all streets, quays, wharves and landing-places, and all other public places or places of public resort; or
- (e) regulate and control music, the beating of drums, tomtoms and other instruments, and the blowing or sounding of horns or other noisy instruments, in any street or any public place other than public buildings and the precincts thereof.
- (2) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—
 - (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place;
 - (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments or means of casting or impelling missiles;
 - (iii) the exhibition of persons, corpses, figures or effigies in any public place; and
 - (iv) the public utterance of cries, singing of songs or playing of music.
- (3) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹, whenever and for such time as he may consider necessary, by notification publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures, or mimetic representations, and the preparation, exhibition or dissemination of

(Sec. 62B.)

pictures, symbols, placards or any other object or thing which-

- (i) may be of a nature to outrage morality or decency, or
- (ii) are likely, in the opinion of the Commissioner of Police to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.
- (4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety:

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Lieutenant-

Governor.

- (5) The Commissioner of Police may also, subject to the orders of the Lieutenant-Governor by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the Commissioner of Police.
- (6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,-
 - (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees; or
 - (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.
- ² **62B.** (1) Whenever a notification, order in writing or Enforcement public notice has been duly issued under sub-section (2), sub-issued under section (3), sub-section (4) or sub-section (5) of the last foregoing section, then-

(a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5),—any Magistrate or any Policeofficer, or

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriesa and IL was Act, 1912 (7 of 1912), s. 8, and Ech. D, item 1, in Vol. I of this Code.
² See foot-note ² on p. 108, gate.

(Secs. 62 C-66.)

(b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3) or, in the case of an order issued under the said sub-section (4),—any Magistrate or any Policeofficer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

Power to give directions to prevent disorder at places of public

162C. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement, or at any assembly or meeting to which the public are invited or which is open to the public,

the Police-officer of highest rank, superior to that of Headconstable, who is present may, subject to such rules, directions and orders as may have lawfully made,

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting;

and all persons shall be bound to conform to such direc-

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under subsection (1) shall be liable to fine which may extend to one hundred rupees.

63 to 65. (Passenger-boats to be registered; power to refuse or cancel registration; penalty for neglecting or delaying to report accident attended with loss of life). Rep. by Ben. Act 4 of 1879.

nalty for nmitting in thlic stre

66. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor's in any * * 4 street, * * 5

¹ See foot note ² on p. 108. ane.

² These have been defined to be "the limits of the town of Calcutta as declared by the Proclamation of the Governor General in Council on the 10th September, 1794, by virtue of the Statute 88 George 8, op. 53, section 158"—see the Calcutta Gastette, 18th April, 1866, p. 882.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), a. 8, and Soh. D, item 1, in Vol. 1 of this Code.

⁴ The word "public", in s. 66, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and is omitted.

³ The word "road" in s. 66, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and is omitted.

(Sec. 66.)

thoroughfare or place of public resort, commits any of the following offences, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees :-

(1) whoever drives, rides or leads any elephant or camel driving, etc., without permission from the Commissioner of Police; camel;

hoever drives any vehicle * * 1 at any time driving vehicle between three quarters of an hour after sunset and sufficient (2) whoever drives any vehicle one hour before sunrise, without a sufficient light light; * 2;

(3) whoever, without reasonable cause, shall drive a driving on the than left or other than left or side of road; near side of the road;

(4) whoever exposes for show, hire or sale, any horse or exposing for other animal, or any carriage, or cleans or dresses show or training any horse or other animal, or cleans any carriage horses, or or other conveyance, or makes or repairs any part conveyance of any cart or carriage, except in cases of accident in places not where repair on the spot is necessary, or trains or allowed; breaks any horse, except in such place and at such times as may be allowed by the Commissioner;

• (4a) whoever exposes or keeps any article so as to cause

exposing or articles so as

obstruction in any public thoroughfare; kepping of the struction in any public thoroughfare; controls to sure to cause without control; obstructing road or thoroughfare by obstruction; cirriage, etc.: obstructing foot-way; beating drum, tom-tom. etc). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), 8.34.

(10) whoever, by driving a hackery or cart with insufficiently-greased wheels, shall create a noise which is dently-greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons gre frequenting or residing near the thoroughfare in which such hackery or cart is driven;

(11) whoever sets fire to or burns any straw or other lighting free matter, or lights any bon-fire, or wantonly dis- ing guns, free ing guns, free matter, or lights any bon-fire, or wantonly dis- ing guns, free matter, or lights any bon-fire, or wantonly discharges any fire-arm or air-gun, or lets off or throws works, etc. any fire-work, or sends up any fire-balloon, in or near any * * * * street * * * * or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police;

¹ The words "of any description", in s. 66 (2), were repealed by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

2 The words "except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary", in s. 66 (2), were repealed by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 84, and are omitted.

3 The words "carriage, cart or other", in s. 66 (3), were repealed by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

4 Clause (4a) was inserted by the Calcutts and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 74, and 18 omitted.

5 The word "public", in s. 66 (11), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

6 The word "road", in s. 86 (11), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

(Secs. 67-68B.)

(12) (illuminations). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910),

affixing bills, or other wise defacing

(13) whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall, 1[tree, fence, post, pole or other erection], or writes upon, defaces or marks any such building, wall, '[tree, fence, post, pole or other erection] with chalk or paint, or in any way whatsoever:

bathing, etc., in public (14) whoever bathes or washes himself in any * *2 street or in, upon or by the side of any public tank, street or squereservoir or aqueduct, not being a place set apart duct; for such purpose;

obstructing persons at

(15) whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing * ** cattle or dogs, at or near such place, or in any other way.

67. (Cruelty to animals). Rep. by the Bengal Cruelty to Animals Act, 1869 (Ben. Act 1 of 1869), s. 8.

Penalty for dranke or riotous or indecent behaviour, in public.

Penalty for committing nuisance in

'68. Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

68A. Whoever wilfully and indecently exposes his person, or commits a unisance by easing himself, in, or by the side of, or near to, any public street or thoroughfare or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding ten rupees, or, in default thereof, to imprisonment, with or without hard labour, for a term not exceeding three days.

alty fe

•68B. Whoever, in a public place, solicits any person to immorality to the annoyance of the person solicited or of any two or more of the inhabitants or passers-by, shall be liable, on

¹ These words in square brackets in clause (13) of s. 86 were substituted for the words "or seece" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 7, in Vol. III of this Code.

8 The word "ublic." in s. 86 (14), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1916 (Ben. Act 8 of 1910), s. 84, and is omitted.

8 The word "horse," in s. 86 (12), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1930 (Ben. Act 8 of 1910), s. 84, and is omitted.

4 This section was substituted for the original s. 63 by the Calcutta and Emburban Police (Amendment) Act, 1936 (Ben. Act 2 of 1988), s. 8, post, p. 977.

8 Section 68.4 was added by the Calcutta and Suburban Police (Amendment) Act, 1836 (Ben. Act 2 of 1868), s. 8, post, p. 977.

8 Section 68.8 was inserted by the Calcutta and Suburban Police (Amendment) Act, 1898 (Ben. Act 8 of 1868), s. 8, in Vol. III of this Code.

(Secs. 69-71.)

summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding eight days.

69. (Penalty for committing a nuisance in streets). Rep.

by the Presidency Magistrat s Act, 1877 (4 of 1877).
70. Whoever in any public * * 1 street, thoroughfare or Beggars. place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms;

or whoever seeks for or obtains alms by means of any false

statement or pretences,

shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term

not exceeding one month.

³70A. (1) The Lieutenant-Governor may, by notification, Retugestor in the Calcutta Gazette, declare any institution, situated either reception of certain in the town of Calcutta or in the suburbs thereof, to be a classes of Refuge for the reception of aged, infirm or incurably diseased beggars. persons convicted and sentenced to imprisonment under section 70;

and may, by like notification, cancel any such declaration.

⁵(2) When any such person is so convicted and sentenced to imprisonment for any term, the Magistrate may, by written order, direct that he be taken to, and detained for the said term in, any Refuge notified under sub-section (1), instead of being imprisoned.

(3) If any such person escapes, before the expiration of the said term, from a Refuge to which he has been so taken, the Magistrate may cancel the order made under sub-section (1), and may direct that the said person shall be imprisoned, with or without hard labour, for the unexpired portion of the said

71. It shall be lawful for all persons, and it is hereby stray animals declared to be the special duty of all Police-officers, to seize all cattle or other animals found straying upon the streets sold unless redemed. or thoroughfares, or trespassing on any of the grounds or prowithin ten
perty of the inhabitants, or of the Government, and to confine days. such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police;

¹ The word "road", in s. 70, was repealed by the Calcutta and Suburban Police (Amendment)
Act, 1910 (Ben. Act 8 of 1910), s. 24, and is omitted.

Section 70A (1) was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910
(Ben. Act 8 of 1910), s. 13, in Vol. III of this Code.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Binar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

For a notification issued under section 70A, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

Sub-sections (2) and (3) of s. 70A were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 20, in Vel. III of this Code.

The word "roads," in s. 71, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and is omitted.

(Sec. 72.)

and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner,

such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner and credited to any fund applicable to police purposes

- **172.** (1) Subject to the restrictions imposed by clause (b)of sub-section (1) of section 62B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under-
 - (a) any section of this Act other than section 68B, or
 - (b) any rule made under this Act, or
 - (c) any other law for the time being in force.

if such person,-

- (i) after being warned by a Police-officer, persists in committing such offence, or
- (ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a policestation on being required so to do.

Esplanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law.

2(2) Should the true name and residence of any such person

not be ascertained within twenty-four hours from the time of arrest, or should be fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate, having jurisdiction.

¹ This section 72 (1) was substituted for the original s. 72 by the Calentia and Suburban Police (Amendment) Act, 1910 (Sen. Act 3 of 1910), s. 21, in Vol. III of this Code.

S This sub-section (2) of s. 72 was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Sen. Act 3 of 1910), s. 23, in Vol. III of this Code.

(Secs. 72A-78.)

172A. Any Police-officer above the rank of native con- Arrest withstable and such other officer as the Local Government or the for solicita-Commissioner of Police may specially appoint in that behalf, tior may, at the instance of any person aggrieved, arrest without warrant any person who, in his sight and in a public place, solicits any person to immorality to the annoyance of the person solicited or of two or more of the inhabitants or passersby, if the name and address of such person be unknown to him and cannot be ascertained by him then and there.

73. (Power to take into custedy without warrant). Rep.

by the Presidency Magistrates Act, 1877 (4 of 1877).

74. Whoever commits an offence on or with respect to the Apprehension of offenperson or property of another, or, in committing any of the deraby prioffences described or referred to in this Act, injures or damages vate in duals. the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he gives his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

75. If any person lawfully apprehended under the last Penalty for preceding section shall assault or forcibly resist the person by resisting whom he shall be so apprehended, or any person acting in his person apprehending aid, he shall be liable to a fine not exceeding two hundred under section

76. Every person taken into custody without a warrant by Detention of a Police-officer shall be taken to the ²[police-station] in order into custody that such person may be detained until he can be brought by police without before a Magistrate, or until he shall enter into recognizances. with or without surcties, for his appearance before a Magistrate.

77. Whenever any person is brought to a '[police-station] Power to take charged with any offence against this Act, * or recognism whenever a person is in the custody of any Police-officer station. without a warrant, it shall be lawful for the officer in charge of such '[police-station], or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

78. Every recognizance so taken shall be without fee or Condition of roward, and shall be conditioned for the appearance of the person thereby bound before the Magistrate at his next sitting;

¹Section 72A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act 2 of 1885), s. 5, in Vol. III of this Code.

⁸The word "police-station" in s. 76 shd 77, were substituted for the word "station-house" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 24, in Vol. III of

this Code.

The words and figures "or with any of the offences numbered 1, 2, 8, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 20, 21, 22, 28, 24 and 25 in section 28 of this "Act," were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

(Sec. 78A.)

and all persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum (not exceeding one thousand rup es) thereby acknowledged;

and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof;

and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place

when and where the party is bound to appear.

178A. (1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving under him, not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid, may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose him to a

criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the Lieutenant-Governor,

with the previous sauction of the Governor General in Council, the Commissioner of Police may, if be thinks fit, order payment, on the part of the Government, of the reasonable

Power of Commissio of Police to require attendance and obtain tatemente of witnesses

¹ Section 78A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1916 (Ben. Act 8 81 1970), a. 25, in Yol. III of this Code.

* Now the Governor in Council of Fort William in Hengal—see the Bengal, Bibar Aid Code.
id Assam La wa Act, 1919 (7 of 1913), s. 5, and Sch. Dyttgen 1; in Well. 1 of this Code.

(Secs. 79, 80.)

expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment as aforesaid of the reasonable expenses of any person not so residing who attends as aforesaid.

79. If information shall be given on eath to the Com- on sample missioner of Police * that there is reasonable cause of goods for suspecting that anything stolen or unlawfully obtained stolen anything stolen or unlawfully obtained stolen are the company of the is concealed or lodged in any dwelling-house, building or obtained

other place, or any ship or vessel,
the Commissioner * *2, by special warrant under his
search
warrant. hand directed to any Police-officer, may cause such dwellinghouse, building or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant;

'[provided that no such warrant shall authorize any Policeofficer below the rank of Sub-Inspector to make any entry or

search at night;

and the said Commissioner * *3, if it shall appear to him necessary, may empower such Police-officer, with such assistants as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and f upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and noreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

30. If information shall be given to any officer of police Power to not below the rank of '[Sub-Inspector] that there is reasonable cause for suspecting that any stolen property is concealed for stolen or lodged in any dwelling-house or other place, and he shall without have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified:

Provided always that a list of articles stolen or missing be delivered or taken down in writing, with a declaration

^{1, 4, 5} The words "or to a Magistrate," "or the Magistrate," and "or Magistrate," respectively, were repealed by the Presidency Magistrates Act, 1877 (4 of 1877), and are omitted.

4 These words in square brackets in s. 79 were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act. 8 of 1910), s. 25, in Vol. III of this Code.

5 This word "Sab-Inspector" in section 10, was substituted for the word "Inspector" by the Debugge, and Suburban Police (Amendment) Agst, 1907 (Ben. Act 3 of 1907), s. 6, in Vol. III of this Code.

'A-80C.)

stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

180A. If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898², the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make

such order as in the circumstances of the case seems proper. *80B. (1) An officer in charge of a police-station in the town of Calcutta may require any officer in charge of a policestation in any part of Bengal, whether within or without the town of Calcutta, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed in accordance with the provisions of section 80 of this Act or section 165 of the Code of Criminal Procedure, 1898, whichever is applicable, and shall forward the thing found (if any) to the officer at whose request the search was made.

*80C. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

(2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under subsection (2) signed by the said witnesses, shall be delivered to such occupant or person at his request.

When officer in charge of police-station may require another to warrant.

making searches.

¹ Section 80A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), a. 27, in Vol. III of this Code.

8 Sections 100 and 552 of Act 5 of 1898 are printed in General Acts, 1898-08, Md. 1909, pp. 78
and 210, respectively.

A Section 80B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 23, in Vol. III of this Code.

Section 150 of Act 5 of 1888 is printed in Canceal Acts, 1898-1908, Ed. 1909, p. 94.

Act 3 of 1919), s. 29, in Vol. III of this Code.

1. It shall be lawful for any Police-officer to seize any steen of property or thing which may be found in the possession of any property person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence; and such seizure shall be forthwith reported to the Commissioner of Police who shall thereupon make such order respecting the custody of production of the property as he shall think proper.

80 to 34. (Disposal of stolen property in custody of police; Magistrate's power to summon persons charged; summons how served; power to issue warrant; power to enforce attendance of witnesses; fees; power to order prisoners to be brought up; giving false evidence; power to advantations and amends; levy of fines; distress not unlawful for want of form). Rep. by the Presi-

dency Mayistrates Act, 1877 (4 of 1877).

95. If any person, upon entering into such recognizance certifies nonas is by this Act authorized to be taken, do not afterwards appearance of appear pursuant to such recognizance, the Magistrate before pursuant to whom he ought to have appeared shall certify the fact of such recognisance non-appearance on the back of the recognizance, and thereupon acknowledged the sum thereby acknowledged shall be recoverable in the may be manner provided by [sections 64 and 67 to 70 of the Indian fine. Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898, * for the levying fines.

96 to 98. (Recognizances; form of judgment; grounds for quashing a conviction). Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).

99. Clause 1.—All actions and prosecutions against any Limitation of person, which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise;

and notice in writing of such action, and of the causes Notice of thereof, shall be given to the defendant one month at least

before the commencement of the action;

and in every such action it shall be expressly alleged in the plaint that the act complained of was done maliciously and

without reasonable or probable cause;

and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in

evidence at any trial to be had thereupon;

¹ These words and figures in square brackets, in s. 95 were substituted for the words "this Let" by the Repealing and Amending Act, 1965 (1 of 1908), Sch. II—see Vol. I of this Code.

4 Sections 66 and 67 to 70 of Act 45 of 1860 are printed in General Acts, 1884-67, Ed. 1909, pp.

^{200-465.} A Santious 206, 367 and 369 of Act 5 of 1996 are printed in General Acts, 1698-1808, 383. 4969,

(Secs. 100, 101.)

Tender of

and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant;

Costs.

and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases:

and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge, before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Police to take charge of unclaimed movable

- ¹ 100. (1) The Police shall, for the purpose of safe custody, take temporary charge of—
 - (a) all unclaimed movable property found by them, and
 - (b) all movable property found lying in any public street, if the owner or the person in charge of such property on being directed to remove the same, refuses or omits to do so within a reasonable time;

and may, for the said purpose, take temporary charge of any unclaimed movable property made over to them.

(2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.

Disposal of of such property.

¹ 101. (1) If the said property appears to have been left by person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator General, with a view to its being dealt with under the Administrator General's Act, 1874, ² or any other law for the time being in force.

² (2) In every other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

¹ These actions 100 and 101 were substituted for the original sections 160 and 101 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910); s. 80, in Vol. III of this Code.

⁹ Act 3 of 1874 has been repeated and re-enacted by the Administrator General's Act, 1918 (8 of 1831). Here was the latter against the second by the Administrator General's Act, 1918 (8 of 1831). Here was the latter against the second by the Administrator General's Act, 1918 (8 of 1831). Here was the latter against the second by the Administrator General's Act, 1918 (8 of 1831).

Act 3 of 1674 has been repeated and re-emented by the Administrator General's Act, 2918 (8, of 1918).—See now the latter Act.

1 As to saving of these provisions from the operation of the General Succession Law, see the Administrator General's Act, 1918 (8 of 1918), a. 55 (2).

(Secs. 102-102B.)

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police; and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention

(5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to be delivered; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

(6) If no person establishes his claim to such property

within the period prescribed in sub-section (2), it shall be at the disposal of the Government; and the property, or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police.

102. It shall be lawful for the Commissioner of Police, by Stray dogs to order in writing, to be affixed at the principal police-stations, be killed at order in writing. and also to be published in some public newspaper, to appoint, app from time to time, certain periods within which any dogs periods. found straying in the streets or beyond the enclosures of the

houses of the owner of such dogs may be destroyed.

¹102A. Any public notice required to be given under any Public notice of the provisions of this Act shall be in writing, shall be signed given. by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police. may deem fit, or by any two or more of these means and by any other means he may think suitable.

102B. Whenever under this Act or any rule made here consent, ander the doing or the omitting to do anything or the validity of committee of the doing of the omitting to do anything or the validity of the doing of of anything depends upon the consent, approval, declaration, relies of experience opinion or satisfaction of the Commissioner of Police or of any low to be other Police of the Commissioner of of the Commission other Police-officer, a written document signed by the Com- provi missioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfac-

tion, shall be sufficient evidence thereof.

¹Sections 102A and 102B were inserted by the Calentta and Suburban Police (Amendment) *Act 1910 (28th. Act 8 of 1920), s. 81, in Vol. III of this Code

[Ben. Act 4 of 4006.]

(Secs. 102C, 103—Schedule of Forms.)

Stamping of signature.

102C. Every license, written permission, notice, or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 62A, or an order made under sub-section (4) of that section, or an order made under section 78A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

103. (Foreign deserters). Rep. by the Indian Ports Act.

1875 (12 of 1875).

SCHEDULE OF FORMS.

FORM A-(Re, erred to in section 13).

A B has been appointed a member of the Calcutta Police force, and is vested with the powers, functions and privileges of a Police-officer.

CALCUTTA,

The

19 .

Commissioner of Police.

FORM B- Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

¹ Section 102C was inserted by the Calcutts and Suburban Police (Amendment) Act, 4910 (Ben. Act 3 of 1910), s. 22(1), in Vol. III of this Code.

This Form was substituted for the orginal Form A by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 33, in Vol. III of this Code.

BENGAL ACT 7 OF 1866

(THE BENGAL EMBANEMENT ACT, 1866).

CONTENTS.

PREAMBLE.

SECTION.

- 1. Lands for embankments may be acquired under powers for acquiring land for public purposes.
- 2. Charging cost of land acquired, where lands of different owners benefited.
- 3. Mode of inquiry as to proportion chargeable to each estate.
 4. Power to make award stating names of owners of lands benefited and proportion Power to make award stating names of owners of lands benefited and proportion of cost payable.
 No appeal from award, but one owner may recover from another not assessed or under-assessed.
 Expense included in cost of acquiring land,
 Expenses of sluice apportioned where lands of different owners benefited.
 Disposal of lands no longer required for embankments.
 Collector may delegate powers to Deputy Collector.
 Act does not apply where obligation to provide land exists.
 Interpretation.

BENGAL ACT 7 OF 1866

(THE BENGAL EMBANKMENT ACT, 1866).1

(9th May, 1866.)

An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.

Whereas it is expedient to make better provision for the Preemble. acquisition of land required for embankments, and for charging the expense thereof upon the owners of lands benefited thereby; Be it enacted:-

When it shall be necessary for any Collector to acquire Lands for emland for the purpose of constructing any public embankment, may be so or of extending or altering any embankment, the superintend-quired under ence or charge whereof is vested in an officer of Government, quiring land the provisions of Act 6 of 1857, passed by the Governor for public purgence of land for public purgence. of land for public purposes," or of any other Act for the time being in force relating to the acquisition of land for public purposes, shall extend and apply to the acquisition of such land for the purpose aforesaid, so far as the same shall be applicable:

and such Collector shall and may take and acquire such land, and assess compensation for the same, and do all other acts necessary for the acquisition thereof, by and under the powers and provisions of such Act or Acts so far as the same is or are applicable in that behalf; but no such declarations or orders by or on behalf of Government as are mentioned in sections 2 and 3 of the said Act 6 of 1857,2 shall be necessary or required.

Any person to whom compensation has been awarded in respect of lands taken shall be entitled to receive the same

bankments

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—eids Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERR—For Statement of Objects and Reasons, see Calcutta Gazette, 1866,

p. 308.

LOCAL EXTENT.—Since this Act contains no local extent clause it must be taken to have extended to the whole of the former Province of Bengal. It has, however, been repealed everywhere except in Orissa and the Sundarhana, by the Bengal Embankment Act, 1878 (Ben. Act 6 of 1878), parts of which are printed, post, p. 236.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1800 (1 of 1900), s. 4 (8), printed in Vol. I of this Code.

The only portion of the present Presidency of Fort William in Bengal in which the Act is in force is the Sundarhans.

Act 6 of 1857 was repealed by Act 10 of 1870, which again has been repealed and re-encoded by the Land Acquisition Act, 1894 (1 of 1894). This reference should now be construct by he made to the latter Act—see s. 2 (3) thereof, in General Acts, 1887-97, Ed. 1909, p. 868.

(Secs. 2, 3.)

together with interest after the rate of tix per centum per annum from the time when the land was taken:

Provided that, notwithstanding anything contained in section 7, clause 1, of Act 32 of 1855 passed by the Governor General of India in Council, entitled "An Act relating to embankments," it shall not be obligatory upon the Collector to pay to any person, nor shall any person have a right to a civil suit for the recovery of, any money in respect of compensation for lands taken, where the same is payable as hereinafter provided by the persons whose lands are benefited, until and unless the Collector shall have received the same from such person.

Charging cost of land acquired, where lands of different owners benefited.

2. In cases where lands, the property of different owners, will in the opinion of the Collector derive benefit from the construction, alteration or extension of any public embankment, and it is necessary to acquire land for the purpose of such construction, alteration or extension, it shall be lawful for such Collector to charge the cost of such land and the expense attending its acquisition upon the persons so deriving such benefit, in such proportions as in his opinion shall be equivalent to the benefit derived by their lands respectively.

Before assessing such contribution the Collector shall cause a notice to be served on each of such persons, in which it shall be stated what land is being taken, and the purpose for which it is required, and that the lands of such person will derive benefit from the execution of the works, and giving him notice that an inquiry will be held, at a day and place to be named, for the purpose of apportioning amongst the persons whose lands will be benefited by the intended works the cost of the land and the expense of acquiring it.

In case such person does not reside within the district in which his lands are situate, the notice may be served upon his agent, or, if he has no agent therein, it will be sufficient to affix the notice upon some conspicuous part of his estate.

3. On the day fixed in the notice, which shall not be less than one month later than the date of service of such notice, the Collector shall proceed to make the necessary inquiry for the determination of the proportion in which the estates affected by the construction, extension or alteration of the embankment will be benefited thereby.

In making this inquiry he shall receive such evidence as may be tendered by or on behalf of the owners of estates which may appear likely to be benefited by the construction, extension or alteration of the embankment as aforesaid, and by and on behalf of any other persons who may claim to be interested, in the said inquiry, and he may make or cause to be made such local investigation, and call for such documents, and examine

Mode of inquiry as to proportion shargeable to each estate

(Secs. 4-6.)

such witnesses, as he may think necessary; and all the provisions of the law for the time being in force in regard to the examination of witnesses and production of documents, in judicial proceedings shall be applicable to inquiries conducted

by the Collector under this Act.

4. The Collector shall and may after such inquiry make an Power to award, in which he shall find and state the names of the stating n persons whose lands will be or are benefited by the construc-tion, alteration or extension of such embankment, and the benefited and proportion of the cost of the land and the expense of its acquisition (including therein the cost of the said inquiry) which payable. they ought, respectively, to bear.

No appeal shall lie from the award of the Collector.

But it shall be competent to the owner of any land assessed to a larger amount than his fair proportion to recover such from another excess in the Civil Court from the owner of any land or estate not assessed benefited thereby upon whom no assessment has been made or a smaller amount has been assessed than ought to have been awarded against him:

Provided that in such suit no more shall be recovered from any person than the amount to which he ought to have been assessed where he has not been required to contribute, or the amount by which the sum he was required to pay was less than his fair proportion where he has been required to contri-

bute.

There shall be included in the expense of acquiring the Expense included in land so to be distributed amongst the persons benefited not montant only the compensation awarded to the owner of the land taken, and including interest at the rate of six per centum per annum from the time when the land was taken, but also the cost of surveys and plans, of notices, of the said inquiry and award, and all other costs, charges and expenses incident to obtaining possession of such land.

The amount so awarded shall and may be recovered from the person so required to pay the same in the same way and by

the same means as arrears of Government revenue.

6. When application has been made to the Collector under of slate section 8 of the said Act 32 of 1855 for the construction of a apport sluice in any public embankment, and in the opinion of the where lands Collector lands, the property of other persons as well as of the owner person making the application, will be benefited by the construction of the sluice, the expense of such construction may be assessed upon and recovered from such persons in such shares or proportions as shall, in the opinion,

No appeal from award but one ow

¹ See now Act 5 of 1908 (the Code of Civil Procedure, 1908), Sch. I, Orders XIII, XVI and XVIII, in General Acts, 1904-09, Ed. 1909, pp. 227, 246.

See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

* The Bengal Embankment Act, 1855. It is printed in Vol. I of this Code.

(Secs. 7, 8.)

of the Collector, be equivalent in the benefit derived by their

lands, respectively:

Provided, nevertheless, that notice in writing shall be served on all such persons, stating that it is proposed to make such sluice, the probable expense thereof, and that an inquiry will be held at a place and hour specified, for the purpose of apportioning the expense of such construction among the persons to be benefited thereby, and that such person is supposed to be likely to be benefited thereby.

And such notice may be served, and such inquiry shall be held, and such award shall be made, subject to the same rules, powers and provisos in all respects as is hereinbefore provided in the case of the apportionment of the cost of land required

embankments.

And the said award shall be final: but a civil suit may be brought to recover any excess with which any such person may be charged from persons who ought to have been charged but have not been charged with any portion of the expense or against whom less has been awarded than their fair proportion, as hereinbefore provided with respect to the apportionment of the cost of land.

7. Whenever, in consequence of the construction or alteration of any public embankment, the maintenance of any other public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient by the officer in charge of the embankments, it shall be lawful for the Collector to dispose of the site of the embankment, or of the land so abandoned by public sale; and all the provisions of the law i for the time being in force in regard to sales of land in default of payment of the Government revenue shall be applicable, so far as the same may be reasonably applied, to sales under the provisions of this section.

The proceeds of such sales shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of the new land taken up for embankment purposes, and in such case the residue only of the cost of such new land shall be apportioned among the owners of lands

benefited as hereinbefore provided:

Provided that it shall not be competent to the Collector to sell in the manner aforesaid any land which shall not have been taken up for embankment-purposes under the provisions of this Act.

8. A Collector may delegate any of his powers under this Act to a Deputy Collector; but from any order passed by a Deputy Collector to whom powers have been so delegated an



w the Bengal Public De, ands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of

(Secs. 9, 10.)

appeal shall lie to the Collector, if presented within fifteen days of the date of the order.

9. Nothing in this Act shall be held to exempt any person and the obligation of giving land gratuitously, or of paying for obligation the obligation exists by any law or custom.

10. The following words and expressions shall have the Interpretation.

11. Interpretation of the purpose from the context.

contrary intention appears from the context.

the word "Collector" shall include any officer exercising, "Collector." by authority of Government, the duties of a Collector of land-revenue, by whatever name his office may be designated:

the word "owner" shall include zamindars, holders of "Owner."

patni tenures or of any rent-free tenure, dependent talukdare, Sundarban grantees and farmers or holders of tenures paying revenue direct to Government.

¹ The provision as to number and gender, which was repealed by the Repealing and Amending Act, 1905 (1 of 1908), is omitted. See now the Bengal General Gausse Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

BENGAL ACT 2 OF 1867

(THE BENGAL PUBLIC GAMBLING ACT, 1867).

CONTENTS.

SECTION.

- 1. Definitions.
- Power to extend Act.
- Penalty for owning or keeping, or having charge of, common gaming-house.
 Penalty for being found in common gaming-house.
- 5. Power to enter and authorize police to enter and search.
- 6. Finding cards, etc., in suspected houses to be evidence that they are common Finding cards, etc., in suspected houses to be evidence that they gaming-houses.
 Penalty for giving false name or address.
 Destruction of instruments of gaming.
 Proof of playing for stakes unnecessary.
 (Repealed.)
 Gaming and setting birds and animals to fight in public streets.
 Exemption of games of mere skill.
 Offences by whom triable.
 Penalty for subsequent offence.
 Application of fines.
 Application of definition of "offence" in Indian Penal Code.

- аррисамов от паев.
 Application of definition of "offence" in Indian Penal Code.
 16. Certain sections to apply without extension.
 17. (Repealed.)

BENGAL ACT 2 OF 1867

(THE BENGAL PUBLIC GAMBLING ACT, 1867).1

(10th April, 1867.)

An Act to provide for the punishment of public sambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal,

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaminghouses in the territories subject to the Lieutenant-Governor of Bengal'; It is enacted as follows:-

1. "gaming" includes wagering or betting [except wager-ing or betting upon a horse-race, when such wagering or betting takes place-

- (a) on the day on which such race is to be run,
- (b) in an enclosure which the Stewards controling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

"instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and

"common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying using or keeping such house. room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever.

¹ SEORT TITLE.—This short title was given by the Repealing and Amending Act, 1908.
(1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—side Act 10 of 1914, Sch. II.
LEGILATIVE PAPER.—For Statement of Objects and Reasons, see Calcutta Gasette, 1967, p. 141.
LOCAL EXTENT.—Sections 7 and 11 of this Act apply to the town and subsrbs of Calcutta, and section 18 applies to the whole of the former Province of Bengal (see s. 16, post, p. 189). Other sections of the Act apply to place to which they are extended by notification under section 2.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Englishton, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

OTHER ENACYMENTS.—For further provisions as to gambling in Bengal, see—
(1) the Howrah Offences Act, 1867 (21 of 1857), ss. 10 to 15, 59, in Vol. I of this Code;
(2) the Indian Penal Code (45 of 1860), s. 294 A, in General Acts, 1884-87, Ed. 1909, p. 231;
(3) the Calcutta Police Act, 1868 (Ben. Act 4 of 1866), ss. 8, 44 to 18, sute, pp. 39, 108, 104

⁽a) the Indian Contract Act, 1872 (9 of 1872), s. 80, in General Acts, 1868-78, Ed. 1906,

⁽⁸⁾ the Indian Contract Act, 1812 (9 of 1012), s. ov, in General Acts, 1802-78, zo. p. 375; and
(5) the Fort William Act, 1881, s. 8 and Sch., Art. (16), in Vol. I of this Code.

This includes the present Presidency of Fort William in Bengal and other territory.

These definitions of "gaming," instruments of gaming" and "common gaming-is section 1, were substituted for the former definitions by the Bengal Public Gambling (Ame. Act, 3938 (Ben. Act 4 of 1918), s. 2, in Vol. III of this Code.

(Secs. 2-4.)

2. It shall be competent to the Lieutenant-Governor of Bengal' whenever he may think fit, to extend, by a notification to be published in Gazette. all or any of the sections of this Act to any city, town (save the town of Calcutta as defined by Act 6 of 1863 passed by the Lieutenant-Governor of Bengal in Council) or place within the territories subject to his government, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined.

Penalty for wning or keeping, or having charge ming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house;

and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house;

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure as aforesaid, opened, occupied, used or kept for the purpose aforesaid;

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure,

shall be liable, on conviction before any Magistrate, to a fine not exceeding two hundred rapees, or to imprisonment of either description, as defined in the Indian Penal Code 7 46 of 1860. for any term not exceeding three months.

Penalty for seing found n common

4. Whoever is found in any such house, tent, room, space, or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees or to imprisonment of either description, as defined in the Indian Penal Code ', for any term not exceed- 45 of 1860. ing one month; and any person found in any common

¹ The classes as to gender and number, which were repealed by the Repealing and Amending Act; 1903 (1 of 1903), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act I of 1869), s. 14, in Vol. 17 this Code.

8 Now the Governor in Conneil of Fort William in Bengal—see the Bengal, Bihar and Orissa and assam Lawa Act, 1912, (7 of 1912), s. 3, and Sch. D, itams 1 and 2, is Vol. 1 of this Code.

19 For a slist of notifications issued under section 2 for Bengal as constituted on the Sist March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

4 The words "three successive numbers of" in s. 2, which were repealed by the Bengal Public Cambling (Amendment) Act, 1918 (Ben. Act 4 of 1913), s. 4 (2), are centred.

4 Let, all places within the local limits of the ordinary original civil jurisdiction of Ris Ben. Ags. 6 of 1888 was repealed by Ben. Act 4 of 1876, which again was repealed by Ben. Act 4 of 1876, which again was repealed by Ben. Act 2 of 1898 has been repealed and re-enserted by the Calquita Mantelpal Act, 1889, Act 2 of 1899, prisade in Vol. III of this Code.



gaming-house during any gaming or playing therein shall be presamed, until the contrary be proved, to have been there

for the purpose of gaming.

with the full powers of a Magistrate or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used

as a common gaming-house.

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody; or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are

found therein;

and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such

earch.

6. When any cards, dice, gaming-table, cloth, boards or to other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any person acting under the authority of either of them.



(Secs. 7-11.)

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Destruction of instruments of

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

to fight in public streets.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing therein at any game was playing for any money, wager or stake.

10. (Act not to apply to certain games). Rep. by the Bengal Public Gambling (Amendment Act, 1913 (Bengal Act 4 of 1913), 8.5 (3).

11. A police-officer may apprehend without warrant any person found [gaming] in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

or any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month,

and such police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate

¹ The word "gaming" in s. 11 was substituted for the words "playing for money or other valuable thing with cards, dies. counters or other instruments of gaming used in playing any game, not being a game, of mere akill" by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 4 of 1918), 6, 4 in Vol. III of this Code

Skill.

(Secs. 11A-16.)

may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

forthwith destroyed, and such place with a such any game of mere hampens game of mere games of m

skill, wherever played.

12. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure' as

to the amount of fine or imprisonment he may inflict. 13. Whoever, having been convicted of an offence punish-Penalty for able under this Act, shall be guilty of any such offence, shall subsequent be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

** All fines * imposed under this Act Application * shall (subject to the provisions contained in the of fines. last preceding section) be applied as the said Lieutenant-Governor shall from time to time direct.

15. Anything made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal of "offence in Indian Indian

16. The provisions of sections 7 and 11 of this Act shall Pensi Code.

Pensi Code.

Certain

apply to the town of Calcutta, and to the suburbs of sections to the town of Calcutta as the same may be from time to time apply with defined by any notification published by the Lieutenant-Governor* in pursuance of Act 2 of 1866 10 passed by the

¹ This new section 11A was inserted by the Bengal Public Gambling (Amendment) Act, 191 (Ben. Act 4 of 1913), s. 3 (3), in Vol. III of this Code. (f. Ben. Act 4 of 1868, s. 50A.

2 Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1882. Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to the latter Code—see s. 8 thereof in General Acts, 1898-08, Ed. 1909, p. 40.

3 The words and figures "The provisions for the recovery of fines contained in sections 44, 65, 66 and 67 of the Indian Penal Code and section 61 of the Code of Criminal Procedure shall apply to," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

4 The words "and penalties," which were repealed by the Repealing and Amending Act, 1908 (1 of 1903), are omitted.

5 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

7 The remaining portion of s. 14, relating to fines, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

As to the recovery of fines, see now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 28, in Vol. III of this Code.

5 Printed in the General Acts, 1844-67, Ed., 1909, p. 248.

5 Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

¹⁸ The Calcutta Suburban Police Act, 1866. It is printed, case, p. 58.

[Bon. Act 9 of 1887.]

(Sec. 17.)

Lieutenant-Governor of Bengal in Council; and the provisions of section 13 of this Act shall * * * 1 apply to the whole of the said territories.

17. (Repeal of sections of Bengal Acts 2 and 4 of 1866). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914. Sch. II. Sch. II.

¹ Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

BENGAL ACT 3 OF 1867

(THE BENGAL PORTS ACT, 1867)

CONTENTS.

PREAMBLE.

SECTION.

- 1. Interpretation.
 2. Penalty for not having sufficient crew on vessels lying in port.
 3. Power to exempt from maintaining crew on particular ships.
 4. Power to revoke exemption.
 5. Power to make order with respect to portions of ports.
 6. Application of section 2 to certain ships.
 7. (Repealed.)
 8. Power to charge port police upon port-fund.
 9. Power to charge upon port-fund portion of expense of municipal police in the power to impose police-port-dues.
 11 to 13. (Repealed.)
 14. Power to compound port-dues.
 15. Power to vary port-dues.
 16. Imposition or increase of port-dues to be published.
 17. Recovery of penalties.
 18. Penalties how disposed of.
 19. Construction.
- - 19. Construction. 20. (Repealed.)

The First Schedule. The Second Schedule. The Third Schedule.

BENGAL ACT 3 OF 1867

3 /

(THE BENGAL PORTS ACT, 1867),1

(10th April, 1867.)

An Act to amend the Law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.2

Whereas it is expedient to amend the law relating to Presemble. merchant-ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal'; It is enacted as following:

1. The following words and expressions for the purposes Interpretaof this Act have the meanings hereby assigned to them, unless tion. where a contrary intention appears from the context, that is

the word "master" denotes any person having temporary "Master." or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master;

the word "owner" includes any agent acting for and on "Owner." behalf of the owner of a ship at the port at which such ship shall lie or be;

the word "port" denotes any port within the Provinces "Port." aforesaid subject to the provisions of Act 22 of 1855 (for the regulation of Ports and Port-dues).

the word "Magistrate" includes any officer exercising any "Magistrate" of the powers of a Magistrate under the Code of Criminal Procedure, and any Magistrate of Police for the town of Calcutta:

the expression "municipal town" denotes the town of "Municipal town" denotes the town of town williams and town." Calcutta and every town, suburb, station, bazar, village and

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 or 1808), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vid, Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.-For Statement of Objects and Reasons, see Calcutta Gazette, 1866,

Lensiblative Papelis.—For Statement of Objects and Reasons, see Calcutta Gazette, 1886, page 2193.

Local Extent.—This Act applies to all ports in the former Province of Bengal which are subject to the provisions of the Indian Ports Act, 1908 (15 of 1908)—see the title and preamble, and the definition of "port" in section 1.

GENERAL LAW.—The general Ports Act is the Indian Ports Act, 1908 (15 of 1908), printed in General Acts, 1904-09, Ed. 1908, p. 519. The present Act is to be construed together with and as part of that Act—see s. 19 post, p. 146, and foot-note thereto.

This includes the present Presidency of Fort William in Bengal and other territory.

Act 22 of 1856 was repealed and re-enacted by the Indian Ports Act, 1875 (12 of 1875), and the laster Act was repealed and re-enacted by the Indian Ports Act, 1889 (10 of 1899), which again has been repealed and re-enacted by the Indian Ports Act 1908 (15 of 1908). The reference in the text to Act 22 of 1855 should now be construed as a reference to Act 15 of 1909, p. 679.

Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Oriminal Procedure, 1888 (6 of 1889). This reference should now be taken to be made to the latter Code—see a. 3 thereof in General Acts, 1898-1908, Ed. 1909, p. 40.

Note The Presidency Magistrate—see the Code of Oriminal Procedure, 1888 (Act 5 of 1898). S. § (2) in General Acts, 1898-1908, Ed. 1909, p. 40.

(Secs. 2-6.)

tract of country to which the provisions of Act 3 of 18641 (the District Municipal Improvement Act), passed by the Lieutenant-Governor of Bengal in Council, have been or shall be extended;

Penalty for not having sufficient els lying

2. If any vessel of more than ten tons burden shall, without such license as hereinafter is mentioned, be affoat in any port within the Provinces under the control of the Lieutenant-Governor of Bengal,3 without having on board thereof a crew of not less than the number set forth in the first Schedule hereto, the master of such vessel, and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

Power to exempt from maintaining

3. Whenever it shall appear to the Conservator of any port that any vessel in such port may, without danger to other vessels in such port, be affoat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such Conservator, if he shall think fit, to grant under his hand a license in the Form A in the second Schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

exemption

4. It shall be lawful for such Conservator, by any writing under his hand in the Form B in the second Schedule hereto, to revoke such license; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

5. Whenever it shall appear to the Conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock without danger to any vessels in any part of such port, it shall be lawful for such Conservator to make an order in the Form C in the second Schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order:

Provided always that every such order, amendment and revocation shall be published in the Calcutta Gazette, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

6. During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to. any vessel lying or being within the limits of any such creek, Fiver or dock, as the same shall be defined by such order.

Ben. Act 8 of 1864 was repealed and re-enacted by Ben. Act 5 of 1876, which again has been repealed, and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884). The reference in the text should now be taken to be made to the Act of 1884—see 8. 2 thereof, post, p. 710.

1. 2 The summer and gender clause, which was repealed by the Bengaling and Amending Act, 1808 (1 of 1908), is omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1892), s. 14, a. This includes the present Precidency of Fort William in Bengal and behar textitery

(Secs. 7-15.)

7. (Penalty on master omitting to take order to extinguish

fire). Rep. by the Indian Ports Act, 1875 (12 of 1875).

8. It shall be lawful for the Lieutenant-Governor of Fower to Bengal' to order (if and when he shall in his discretion think police upon fit) that the entire or any portion of the expense of maintaining the police-force in any port which may be within or
abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

9. It shall be lawful for the Lieutenant-Governor of charge sponsengal, from time to time, to assign to the persons charged portland with the management of the municipal fund of any municipal appears of town upon which any port may be abutting, or within which municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port fund of such port as to him shall seem just and reasonable for or towards re-imbursing to such municipal fund such portion of the expense of the policeforce in such town as may, in the opinion of the said Lieutenant-Governor of Bengal, be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

10. In case the port fund of any port shall, after providing Power to for the payment of all sums and charges now by law payable out of such port-fund be insufficient to pay any expense of does. police and annual sums which shall, under the provisions aforesaid, be payable thereout; it shall be lawful for the said Lieutenant-Governor of Bengal, and he is hereby required, to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called policeport-dues, as shall thereunto be necessary:

Provided that the same shall not exceed the port-dues in that behalf mentioned in the third Schedule to this Act.

11 to 13. (Imposition and application of hospital port-dues'; power to refuse port clearance till expenses under Merchant Shipping Act, 1854, s. 228. are paid). Rep. by the Indian Ports Act. 1875 (12 of 1875).

14. It shall be lawful for the owner of any vessel to pay to Power to the Conservator of any port three times the amount of the compensations. police-port-dues and hospital-port-dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

15. It shall be lawful for the Lieutenant-Governor of 1 Bengal', from time to time, to vary the rate of police-port-dues and

¹ Now the Governor in Council of Fort William in Bengul—see the Bengul, Bihar and Orises and Asam Laws Act, 1912 (7 of 1912), s. 8, and Soo. D, items I and 2, in Vol. I of this Code.

2 As to the imposition and application of heaptial port-dise, see now the Indian Perts Act, 1906 (18 of 1908), ss. 48,50 in Geoscal Acts, 1894-29, Sd. 1809, pp. 837, 838

(Secs. 16-20.—The First Schedule.)

•1 payable in any port, as to him in his discretion shall seem fit, so as that the same shall not exceed the rates in the third Schedule * * set forth.

Imposition or increase of port-dues to be published.

- 16. No order of the Lieutenant-Governor of Bengal,3 imposing or increasing any port-dues under this Act, shall take effect until the expiration of six calendar months from the day upon which such order shall have been published in the Calcutta Gazette.
- Recovery of penalities.
- 17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed

Penalties how disposed of

18. All penalties levied under this Act shall be applied as fines received under the said Act 22 of 1855 are directed to be applied.

Construction.

- 19. This Act shall be construed together with and as part of the said Act 22 of 1855.
- 20. (Commencement of Act). Rep. by the Repealing Act 1873 (12 of 1873).

THE FIRST SCHEDULE.

(Referred to in section 2.)

	If Natives.	If Euro- peaus.	Officers in charge.
Cargo- boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings.	6	4	1
For every additional 100 tons	13	1	0
Vessels not being cargo-boats of 600 tons and nuder, in stream,	11	71	1
For every additional 100 tons	2	1	0

¹ The words "and hospital port dues," which were repealed by the Repealing and Amending
Act, 1908 (1 of 1908), are omitted.

The word "respectively." which was repealed by the Repealing and Amending Act, 1908 (1 of
1808), is omitted.

Now the Governor in Council of Fort William in Bengal—see the Rengal, Bihar and Orises and
Awam Laws Act, 1912 (7 of 1912), a. 8, and 8ch. D, items 1 and 2, in Vol. I of this Code.

A The remainder of a. 17 (relating to the recovery of fines), which was repealed by the Repealing
and Amending Act, 1908 (1 of 1908), is omitted. See now the Bengal General Clauses Act, 1898
(Ban. Act, 10 1899), a 25, in Vol. III of this Code.

Act 13 of 1856 was repealed and re-enacted by the Indian Ports Act, 1876 (13 of 1875), and
the lating Act was repealed and re-enacted by the Indian Ports Act, 1898 (10 of 1897), which
in the fifth to Act 37 of 1855 should now be construed as a reference to Act 15 of 1999—eac. the
General Clauses Act, 1897 (10 of 1897), a. 8, in General Acts, 1827-97, Rd. 1909, p. 579.

of 1967.]

(The Second and the Third Schedules.)

THE SECOND SCHEDULE.

(Referred to in sections 3, 4 and 5).

FORM A.

Port of () Conservator of the Port of do hereby license the (ship) of which is master, to remain at her present moorings, in the said port, without having on board the crew required by Act 3 of 1867 of the Lieutenant-Governor of Bengal in Council:

Provided always that, on breach of any of the conditions hereunder written, this license shall forthwith absolutely cease and determine.

FORM B.

Port of () Conservator of the Port of do hereby revoke all license to the (ship) to remain in port without a crew therein.

FORM C.

) the Conservator of the Port of do hereby order that vessels lying in the following portion of the said port (here set out the exempted limits) shall be exempt from the provisions of the second section of Act 3 of 1867 passed by the Lieutenant-Governor of Bengal in Council

THE THIRD SCHEDULE.

(Referred to in sections 10 * *1 and 15.)

PORT-DUES.

Police-port-dues.

For every vessel entering any port, two annas per ton.

¹The figures "11," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

²The provision as to hospital-port-dues, which was repealed by the Repealing and Amending Act, 1906 (5 of 1908), is omitted. As to the imposition of hospital port-dues, see now the Indian Ports Act, 1908 (15 of 1908,) s. 49, in General Acts, 1904-09, Ed. 1909, p. 587.

BENGAL ACT 4 OF 1867

[THE BENGAL RENT (APPEALS) ACT, 1867] 1.

(5th June, 1867.)

(Title and preamble). Rep. by the Repealing and Amendina Act. 1903 (1 of 1903).

1. Words importing the singular number shall include the Interpretaplural, and words importing the plural number shall include tion. the singular.

2 to 4. (Confirmation of prior orders by Deputy Collectors). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

5. 10 ° 1 t shall be competent to the Lieutenant-Governor of Bengal's specially to appoint any fully qualified Revenue
rangements officer to exercise the powers of the Collector of a district for the by officers purpose of enabling him to hear and determine appeals under specially appointed by the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862, and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district, within which such person shall be so appointed, might have and exercise.

10 of 1869. Ben. Act 6 of 1862.

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.
LEGISLATIVE PAPELE.—For Statement of Objects and Reasons, see Calcutta Gazette, 1867

Legislative Parrise.—For Statement of Objects and Rossons, see Calcutta Gazette, 1867 page 341.

Legislative Parrise.—For Statement of Objects and Rossons, see Calcutta Gazette, 1867 page 341.

Legislative Parrise.—The original local extent of this Act must (see section 5) be taken to have been the same as that of Act 10 of 1869 and Ben. Act 6 of 1862, namely, the whole of the former Province of Bengal. The Act has however been repealed by the Bengal Tenancy Act 1885 (8 of 1864), s. 2 (2), (printed in Vol. I of this Code), everywhere except "the town of Calcutta, [the Phirision of Orissal and the Scheduled Districts. Under the terms of the notifications, extending the Act of 1885 to such districts. Under the terms of the notifications, extending the Act of 1885 to the Jalpsiguri District, the repeal has taken effect in that district.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Begulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

The only portions of the present Presidency of Fort William in Bengal in which Ben. Act 4 of 1867 appears to be effectually in force at the present time is the Darjecting District.

*Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

*Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orisas and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, m Vol. I of this Code.

*These references in s. 8 were substituted for the words "the said rectived Acts" by the Repealing and Amending Act, 1908 (1 of 1908). The Bengal Rent Act, 1869, is printed in Vol. I of this Code.

BENGAL ACT 3 OF 1868

(THE BENGAL LAND-REVENNE SETTLEMENT ACT, 1868).1

(1st July, 1868.)

An Act to amend the law respecting appeals in cases under Regulation 7 of 1882 ?.

Whereas it is expedient that the period for presenting Preamble. appeals under section 29 of Regulation 7 of 1822, should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities; It is enacted as follows :-

1. No petition of appeal presented under the provisions of Limitation of section 29 of Regulation 7 of 1822, shall be received after the expiration of thirty days from the date of the decision against Regulation 7, 1832. which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

2. (Commencement of Act). Rep. by the Repealing Act, 1873 (12 of 1873).

1 Shout Title.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 1.—see Vol. I of this Code That Act is now known as the Amending Act, 1908—eide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 966, and for Proceedings in Council, see ibid, Supplement, pp. 281, 298, 863 and 871.

LUCAL EXTENT.—The local extent of this Act is the same as that of the Bengal Land-revenue Sattlement Regulation, 1822 (7 of 1823), s. 29, printed in Vol. I of this Code.

The application of the Act is barred in the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

BENGAL ACT 4 OF 1868

[THE BENGAL ALLUVION (AMENDMENT) ACT, 1868].1

(8th July, 1868.)

An Act to amend the provisions of Act 9 of 1847 2 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa).

Whereas it is expedient to amend the provisions of Act 9 Presentle. of 1847 2: It is enacted and declared as follows:-

1. (Repeal of s. 7 of Act 9 of 1847). Rep. by the Repeal-

ing Act, 1873 (12 of 1873).

2. It is hereby declared that when any islands shall, under Accessions to the provisions of clause 3, section 4, of Regulation 11 of 1825 island of the Bengal Code, be at the disposal of Government, all lands increment gained by gradual accession to such island, whether from a recess of the river or of the sea shall be considered an increment to such island, and shall be equally at the disposal of Government.

3. Whenever it shall appear to the local revenue-author- newly thrown ities that an island has been thrown up in a large and navi- up islands to be assessed. gable river liable to be taken possession of by Government under clause 3, section 4, of Regulation 11 of 1825 of the Bengal Code, the local revenue-authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be flual:

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a

regular suit in the Civil Court.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 508, and for Proceedings in Council, see ibid, Supplement, 1868, pp. 258, 387, 882, 872 and 888.

LOCAL EXTENT.—The local extent of this Act appears to be the same as that of the Act 9 of 1847 which it amends, printed in Vol. 1 of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1906 (1 of 1900), a. 4 (2), printed in Vol. 1 of this Code.

The Bengal Allavies and Diluvion Act, 1847. It is printed in Vol. 1 of this Code. The section of Act 9 of 1842 which was specifically "amended" by Ben. Act 4 of 1968 was s. 7, which is replaced by a. 3 of the present Act.

The Bangal Allavien and Diluvion Regulation, 1826. It is printed in Vol. I of this Code.

[Berl. Act 4 of 1868.]

(Secs. 4-8.)

Subsequent junction to mainland not to affect Government right.

4. Any island of which possess on may have been taken by the local revenue-authorities on behalf of the Government under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possess on of such island shall have been so taken.

Power to apply for ways across islands. 5. Whenever an island, of which possession shall have been taken by Government under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government may apply to the Collector to take measures for the construct on of ways, paths and roads on the island: the costs thereof to be equally divided between the applicant and the Government.

Applicant for ways to deposit money, and ways to be made.

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Coats of ways how borne.

7. In every case the applicant shall be liable to may and make good to the Government one half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Ways to be public.

8. Every way, road and path, which shall be lad out or appointed under the provisions aforesaid, shall be deemed a public highway.

BENGAL ACT 7 OF 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868).

CONTENTS.

PREAMBLE.

SECTION.

- 1. Interpretation.
- Appeals against sales
 Time for Revenue-sales extended

- Time for kevenne-saics extended
 Time for confirmation of sales extended
 Mode of serving notices.
 Power to cause notices to be served for arrears or demands
 Notices to raigats to be posted in sub-divisional cutcherry.
 Certificate to be conclusive evidence of regularity in service of notices
- 9. (Repealed.)
 10. Collectorate to include all estates borne on its roll.
- Conceverate to menute a
 Power to sell tenures.
 Effect of sale of tenure.
 Power of enhancement.
- 14. Saving of entancement.
 14. Saving of raiya
 15 to 29. (Repealed.)
 30. Construction,
 Schedules 1 to E. (Repealed.)

BENGAL ACT 7 OF 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868).1

(26th August, 1868.)

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Whereas it is expedient to amend and extend the law for Presemble. the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue; It is declared and enacted as follows :-

1. In this Act, and in Act 11 of 1859 (to improve the law Interprerelating to sales of land for arrears of revenue in the Lower Provinces under the Benyal Presidency,) the words in this section mentioned shall have the meanings therein attributed to them, respectively-

the word "proprietor" includes any tenant by whom any "Proprietor."

estate or tenure is held directly under Government:
the word "revenue" includes every sum annually payable to "Revenue."
Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of takavi, or of any money advanced by Government to proprietors of land for making or repairing embankments, reservoirs or watercourses, or other improvements on the land held by them:

the word "estate" means any land or share in land subject "Estate." to the payment to Government of an annual sum in respect of

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908, (1 of 1908), Sch. I —see Vol. I of this Code. That Act is now known as the Amending Act, 1908 —side Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1868, pp. 471; and for Proceedings in Courcil, see ibid, Supplement, 1868, pp. 247, 281, 390, 418, 509 and 528, LUGAL EXTENT.—Since this Act is (see a. 80, post, p. 162) to be read with and taken as part of the Bengal Land-Revenne Sales Act, 1859 (11 of 1859), it has the same local extent as that Act, printed in Vol. I of this Code.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874) e. 5, to the following Scheduled Districts, namely:—

the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV; and the Darjoeling District—see it.

1t will be noticed that this Act has not, like the Bengal Land-revenue Sales Act, 1859 (11 of 1859), in Vol. I of this Code, been expressly declared, by notification under the Scheduled Districts Act, 1874, to be in force in West Jalpaiguri.

The application of the Act is barred in the Chittagong Hill tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

ANNOTATED REPRINT.—This Act is reprinted, with notes of cases decided by the High Court and of important rulings of the Board of Revenue, in the Sale Law Manual, 1908, p. 58.

The CERRIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realised by sale under the present Act, and of money declared to be recoverable under the present Act, set the Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I, of this Code

* The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I, of this Code

(Sec. 2.)

which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act 11 of 1859, have been

' Tenure."

the word "tenure" includes all interests in land, whether rent-paying or lahkiraj (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been specially reserved by stipulation in any instrument:

"Juriodic-

the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers:

" Callector."

the word "Collector" includes any person vested with the powers of a Collector.

2. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act 11 of 1859. * *** so that such appeal be preferred to such Commissioner on or before the sixtleth day from the day of sale, reckoning as in section 23 of the said Act 11 of 1859,1 or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth tay from the day of sale, reckoning as aforesaid, and not otherwise;

and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act 11 of 18591, which shall appear to him not to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensa-tion for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchasemoney during the period of its being retained in the Collector's office :

¹ The Bengal Land-revenue Bales Act, 1869. It is printed in Vel. I of this Code. Since remainder of a 1, which was repealed by the Public Demands Recevery Act, 1809 (Ben. Act 7 of 1880), is omitted.

On the words "not being a sale made under, and by virtue of, any emercians insured upon a satisfacts made as herainster is provided," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

4 as to the recovery under the certificate procedure of sums a warded as temperature medium for first fits, as the Bengal Public Demands Recovery Act, 1818 (Ben. Act 8 of 1829), a. 2 (S), and Sch. I, in Vol. III of this Code.

(Secs. 3-6.)

and the order of the Commissioner shall in such cases be final.

* * * The word "thirty" shall be substituted for Time to 3. the word "fifteen" in section 6 of the said Act 11 of 1859 3 *** section 6

4. * * * * The words "sixtieth" and "sixty" shall be Time-for substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said extended Act 11 of 18592.

5. Every notice in and by this Act, or by the said Act 11 Mode of of 1859, directed to be served, shall be served by delivering to notices. the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the

Collector issuing such notice may direct.

6. It shall be lawful for the Lieutenant-Governor of Power to cause notic Bengal, by an order published in the Calcutta Gazette. to to be serve empower all Collectors in any district in such order mentioned, for areas if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors before proceeding under the provisions of the said Act 11 of 1859° or of this Act, to realize from such proprietors any arrears of revenue of which be due from such #6 proprietors

and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue * * * * which may be due from such proprietors * **, and shall be recoverable as if the same were a portion of such arrears of revenue

and every such order may from time to time be altered, varied or revoked by any other order of the said Lieutenant-Governor to be from time to time in like manner published.

The words "From the date when this Act comes into operation," in ss 8 and 4, which were appealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

The Bengal Land-revenne Salos Act, 1859. It is printed in Vol I of this Code.
The remainder of a 5 (which repealed the words "or more than thirty" in s. 6 of Act 11 of 1859) was repealed by the Repealing and Amending Act, 1903 (1 of 1903), and is omitted.
A Now the Governor in Council of Fort William in Bengal—see the Bangal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol I of this Code.
The words "or persons liable to any demands," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.
The words "or any demasds," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.
The words "or or any demands," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.
The words "or of 1880,) are omitted.
The words "or of such demands" which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

(Secs. 7-11.)

forices to wiggets to be conted in ub divisional utcherry. 7. In addition to the notices in and by section 7 of the said Act 11 of 1859 directed to be posted, a similar notice shall be posted at the sub-divisional cutcherry within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

Dertificate to be conclusive fyidence of regularity in service of notices. 8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act 11 of 1859¹, or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser, and of every person claiming under him, that all notices in or by this Act, or by the said Act 11 of 1859, required to be served or posted, have been duly served and posted;

and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

9. (Sales of làkhirài vatid). Rep. by the Repcaling and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

Collectorate to include all estates borne on its roll. 10. Every estate shall, for the purposes of this Act and of the said Act 11 of 1859, be deemed to be within the collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction; but all lands and tenures shall be deemed to be within the jurisdiction within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector.

Power to sell tenures, *11. Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act 11 of 1859. The Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act 11 of 1859 provided for the sale of estates for the recovery of arrears of revenue;

and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act 11 of 1859, except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the proprietor of the estate;

and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act 11 of 1859 with respect to estates:

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

This section was substituted for the original s. 11 by the Bengal Land-revenue Sales (Amendment) Act, 1871 (Ben. Act 2 of 1871), post, p. 195.

(Secs. 12, 13.)

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act 11 of 1859,1

in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and police-thana of the division in which the tenure to which the notification relates is situated, or, if the tenure be situated within the jurisdiction of more than one Munsif's Court or police-thana, in some one or more of such Courts or thanas, and also at the cutcherry of the malguzar or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed

for the purpose.

The purchaser of any tenure sold under the provisions Effect of tenure. of section 11 of this Act shall acquire it free from all incumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all undertenures, and forthwith to eject all under-tenants, with the following exceptions:-

First.—Istimrari or mukarrari tenures which have been held at a fixed rent from the time of the permanent settle-

Secondly.-Tenures existing at the time of Permanent Settlement, which have not been held at a fixed rent:

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—Tenures created or recognized by the settlementproceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement.

Fourthly .- Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

13. Every purchaser of a tenure under section 11 of this Power of Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions

The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

(Secs. 14-30.—Schedules A—E.)

above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Maving of right of raiss!. 14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any raiyat having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such raiyat otherwise than in the manner prescribed by such laws. or otherwise than as the former proprietor irrespectively of all engagements made since the time of settlement, may have been entitled to do.

15 to 28. (Certificates of unliquidated arrears executable as decree of Civil Court; notice of certificate; objections to certificate; enforcement of certificate; register of certificates; inspection of register; entry of satisfaction; transmission of sums received). Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

29. (Repeal of enactments). Rep. by the Repealing Act, 1873 (12 of 1873).

Construction.

30. This Act shall be read with, and taken as part of, the said Act 11 of 1859 1 as modified by Act 3 of 1862 2 of the Lieutenant-Governor of Bengal in Council.

SCHEDULES A. B. C. D.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

SCHEDULE E.

Rep. by the Repealing Act, 1873 (12 of 1873).

The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.
The Bengal Land-revenue Sales (Amendment) Act, 1862. It is printed ante, p. 1.

BENGAL ACT 1 OF 1869.

(THE BENGAL CRUELTY TO ANIMALS ACT, 1869).

CONTENTS.

Section.

- Section.

 1. Definition of "animal."

 2. Penalty on cruelty to animals.

 3. Penalty on baiting animals, or inciting them to fight.

 4. Penalty on permitting diseased animals to go at large or die in public places.

 5. Penalty for employing animal unfit for labour.

 5A. Penalty for practising phuka.

 5B. Infirmaries.

 5C. Limitation of prosecutions.

 6. Trial of offences in Calcutta.

 7. Trial of offences out of Calcutta.

 8. (Repealed.)

 9. Limit of Act.

 10. Power to extend Act.

BENGAL ACT 1 OF 1869

(THE BENGAL CRUELTY TO ANIMALS ACT, 1869).1

(10th March, 1869.)

An Act for the Prevention of Crueity to Animais.

Whereas it is expedient to make provision for the prevention of cruelty to animals; It is enacted as follows:-

21. In this Act, the word "animal," means any domestic Definition of "animal."

or captured animal.

2. Every person who shall cruelly and wantonly beat, ill- Penalty on treat, abuse, torture, overdrive or overload, or cause to be or cause to be or male. beaten, ill-treated, abused, tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one

hundred rupces.

3. Every person who shall incite any quadrupeds or birds, penalty on whether domestic or wild, to fight, or shall bait any animal, batting animals, or limit or shall abet any one in so doing, shall be liable fight.

4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any diseased animal, of which he may be owner, to go at large in any diseased animal. public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit public places. any diseased or disabled animal, of which he may be owner,

¹SBORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

Ben. Acts. 1 and 8 of 1869 and 8 of 1900 may be cited together as the Bengal Cruelty to Animals Acts, 1869 to 1900—see Ben. Act 3 of 1900, so (2), in Vol III of this Code.

LEGISLATUR PAPERS.—FOR Statement of Objects and Reasons, see Calcutta Gasette, 1868, p. 887, and for Proceedings in Council, see ibid, Supplement, 1868, pp. 278 and 877; Supplement, 1869,

EMBRATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1868, p. 287, and for Proceedings in Council, see ibid, Supplement, 1868, pp. 278 and 877; Supplement, 1869, pp. 15 and 29.

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta (see s. 9, poet, p.), and may be extended to any city, town, station, bazer, cantonment, village, district or portion of a district in Bengal (see s. 10, post, p. 167).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code.

ARREST.—For power of polics to arrest, without a warrant, persons committing offences against this Act, see Ben. Act 3 of 1869, post, p. 169.

OTHER ACTS.—A similar Act, passed by the Governor General of India in Council, is the Prevention of Ornelty to Animals Act, 1890 (11 of 1880), printed in General Acts, 1887-97, Ed. 1909, p. 289. Power to extend that Act, or any part of it, to Bengal, is given by s. 1 (2). For a list of notifications issued under section 1(2) of Act 11 of 1890 for Bengal as constituted on the Sist March, 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. IV.

Other enactments giving powers of punishment for cruelty to animals are the Indian Benal Code (45 of 1861), s. 34(2) (printed in General Acts, 1834-67, Ed. 1909, p. 888), the Police Act, 1861 (6 of 1861), s. 34(2) (printed in General Acts, 1834-67, Ed. 1909, p. 888), the Police Act, 1861 (6 of 1861), s. 54(2) (printed in bid, p. 891), and the Stage-Carriages Act, 1861 (6 of 1861), s. 10 (1) of this Code.

The original section, see the Bengal Public Parks Act, 1904 (Ben. Act 2 of 1904), s. 4 (4), (7), in Vol. III of this Code.

This section was substituted for the original s. 1 by the Bengal Cruelty to Animals Act, 1900 (Ben. Act 2 of 1904), s. 1, printed in Vol. III of this Code.

The original section ran thus:—

"I. The word 'animal' shall be taken to mean any domestic or tamed quadraped," og any domestic or tam

Penalty for

employing animal unfit

for labour.

Penalty for practicing panks.

(Secs. 5-6.)

to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees.

5. If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

5A. If any person performs upon any cow the operation called phuká he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

5B. (1) The Local Government may, by general or special order appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed.

(2) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for the work or labour on which it has been ordinarily employed.

(3) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police, may from time to time prescribe.

(4) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (2) may prescribe, such Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the

*5C. A prosecution for an offence against this Act shall not be instituted after the expiration of three months, from the date of the commission of the offence.

6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of

mitation of

These ss. 5 to 5C were substituted far the original s. 5 by Ben. Act 3 of 4809, s. 2, in Wel. III

iThese ss. 5 to 00 were recommended in this Code.

The original section 5 mm thus to the complexed in any work or labour any animal a Every person who shall employ or cause to be employed in any work or labour any animal side, in among tends of any disease, infrastly, weared a room, is such to be so employed, whall elikibe to a fine which may extend to fits rupees.

Iffore its of orders made under a 5 (2) for Bengal as constituted on the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Sixt Morch, 1912, at the Energy Length Length State of the Sixt Morch, 1912, at the Energy Length Length

(Sec 4. 7-10.)

Calcutta, shall be heard and determined in a summary way

by some Police Magistrate of Calcutta.

7. Every charge of an offence against the provisions of Trial of -this Act, alleged to have been committed out of Calcutta, Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure's shall apply to the trial of every such charge.

8. (Repeal of enactments). Rep. by the Repealing Act, 1873

(12 of 1873).

9. This Act shall extend to the town of Calcutta and to Limit of Act. the suburbs of the town of Calcutta as defined by any noti-

fication under section 1 of [Bengal Act 2 of 1866].

10. It shall be lawful for the Lieutenant-Governor of Power to exBengal', by an order published in the Calcutta Gazette, to tend Act. extend this Act to any city, town, station, bazar, cantonment. village, district or portion of a district, to be mentioned and defined in such order; and from time to time, by any order published, as aforesaid, to revoke, vary, amend c- after any such order.

¹Nom "Presidency Magistrate"—ste the Code of Criminal Procedure, 1898 (5 of 1898), s. 8, in General Acts, 1898-1908, Ed. 1899, p. 40.

This reference to Act 25 of 1861 must now be taken to be made to the Code of Criminal Procedure, 1898 (5 of 1898)—see s. 3 (1) of the laster Act, in General Acts, 1898-1908, Ed. 1909,

Procedure, 1876 to 01 1879 — eee s. b. (1) of the transfer of the words and figures in square brackets in s. 9 were substituted for the words and figures in square brackets in s. 9 were substituted for the words and figures the said Act 2 of 1866 "by the Repealing and Amending Act, 1903 (1 of 1903), printed in Vol. I of this Code. The short title of Bengal Act 2 of 1866 is "The Calcutta Suburban Police Act, 1506." The Act is printed ante, p. 58.

4Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Laws Act, 1912 (7 of 1912), s. 3, and Sob. D, items 1 and 2, in Vol. I of this Code.

*For a list of orders made under s. 10 for Bengal as constituted on the Sisi March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI

BENGAL ACT 3 OF 1869

[THE BENGAL CRUELTY TO ANIMALS (ARREST) ACT, 1869].1

(25th August, 1869.)

An Act to enable Police-officers to arrest without warrant persons guilty of crueity to Animais.

Whereas it is expedient to enable police-officers in certain places to arrest without warrant any person committing, within their view, any offence against Act 1 of 1869 passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the Prevention of Cruelty to Animals; It is enacted as

1. Every Police-officer may arrest without a warrant any Arrest or person committing, in his view, any offence against the said of cruelty. Act 1 of 1869.2

2. This Act shall apply to the town of Calcutta, as defined to spply in Act 4 of 1866 passed by the Lieutenant-Governor of Bengal to Calcutte in Council, and in the suburbs of the Town of Calcutta, as the same may from time to time be defined by any notification to be from time to time published by the said Lieutenant-Governor. in pursuance of the provisions of Act 2 of 1866, and save as hereinafter is provided, to such towns and suburbs only.

It shall be lawful for the Lieutenant-Governor of Power to extend Act. Bengal by a notification to be published in the Calcutta Gazette, to extend this Act to any town, suburbs, district or tract of country, to be mentioned and defined in such notification; and from and after the publication of such notification this Act shall extend and apply to the town, suburb, district or tract of country therein mentioned and defined.

¹ Short Title.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 1—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908 —side Act 10 of 1914, Sch. II.

This Act, with Ben. Acts 1 of 1869 and 3 of 1900, may be cited together as the Bengal Cruelty to Animals Act, 1869 to 1900.—see Bengal Act 3 of 1900, s. S (2), in Vol. III of this Code.

LEGIRLATIVE PAPERS.—For Proceedings in Council, see the Calcutta Casette, 1869, Supplement, pp. 504, 525 and 542.

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta (see s. 2), and may be extended to any town, suburb, district or tract of country in Bengal (see s. 2).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts.

The Bengal Cruelty to Animals Act, 1869. It is printed sate, p. 165.

The Calcutts Folice Act, 1866. It is printed sate, p. 186.

The Web Govergor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assess Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items I and 3, in Vol. I of this Code.

The Calcutts Suburben Police Act, 1866. It is printed sate, p. 58.

To be applied to a proper in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assess Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items I and 3, in Vol. I of this Code.

The Calcutts Suburben Police Act, 1866. It is printed sate, p. 58.

To be list of notifications issued under section 5 for Bengal as constituted on the Site March, 1813, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 7 OF 1869

(THE BENGAL POLICE ACT, 1869).1

(29th September, 1869.)

An Act to amend the constitution of the Police-force in Bongai.

Whereas it is expedient that the entire police-establish- Preamble. ment in the provinces under the control of the Lieutenant-Governor of Bengal 2 should cease to be one police-force, and that the said provinces should cease to be one general policedistrict under one Inspector-General; It is enacted as follows:-

1. (Repeal of section 2, Act 5 of 1861). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act. 1903—vule Act 10 of 1914, Sch. II.

2. It shall be lawful for the Lieutenant-Governor of Power to Bengal, from time to time, to divide the said provinces into provinces into as many general police-districts as he may think fit, and from police-distime to time to vary and alter any of such general police-districts, or to consolidate two or more of such general policedistricts into one district, as he may think fit.

3. It shall be lawful for the said Lieutenant-Governor. Power to in each such general police-district to appoint some person to exercise in such district the powers of an Inspector-General of the seconds. Police, whether such person shall or shall not hold any other inspector office under the said Lieutenant-Governor 3; and the adminis- General. tration of the police throughout such general police-district,

¹ Short Title—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—zer Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.
LEGISLATURE PAPRIS.—For Statement of Objects and Reasons, zee Calentta Gazette, 1869, page 484, and for Proceedings in Council, zee ibid, Supplement, 1869, pp. 155, 265, 291, 341 and 646.
LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—zee the title and preambles LOCAL EXTENT.—This Act was passed for the whole of the former frozence of title and preamble.

The Act is in force in the Chittagong Hill-tracts—see Vol. 1V, Pt. VII.

OTHER ENACTHENTS.—The General Police Acts in force in Bengal are—

(1) the Police Act, 1881 (6 of 1881), printed in General Acts, 1887-87, Ed. 1908, p. 78.

For further local enactments, in force in Bengal, relating to the Police, see—
the Cuttack Police Regulation, 1806 (18 of 1805), in Vol. I of this Code, the Calcutta Suburban Police Act, 1866 (Ben. Act 2 of 1866), aste, p. 58. the Calcutta Police Act, 1866 (Ben. Act 4 of 1866), aste, p. 69. the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870), post, p. 175. the Bengal Village Chaukidari Act, 1871 (Ben. Act 1 of 18671), post, p. 198. the Chittagong Hill tracts Frontier Police Regulation, 1881 (8 of 1881), in Vol. I of this Code,

the Chittagong Hill tracts Frontier Folice Regulation, acc. (Co. 2007),
Code,

[Ben. Act 7 of 1869.]

(Secs. 4-6.)

and all powers and authorities by the said Act 5 of 1861 or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

Police-establishment in each district to be considered one police-force. 4. The entire police-establishment in every such district shall, for the purposes of the said Act 5 of 1861, be deemed to be one police-force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the said Lieutenant-Governor, subject to the sanction of the Governor General of India in Council.

Power to employ police out of district. employ members of the police-force who have been enrolled in. or appointed to, any one general police-district, in any other general police-district within the provinces subject to his control; and the powers conferred on police-officers by the Code of Criminal Procedure 3 may be by them exercised in any 25 of 1861. portion of the said provinces without reference to the local limits of the general police-district to which they may respectively belong.

6. This Act shall be read and taken, in the provinces under

Construction.

the control of the Lieutenant-Governor of Bengal, as part of the said Act 5 of 1861. 1

1 The Police Act, 1861. It is printed in General Acts, 1884-87, Ed. 1909, p. 878.

¹ The Police Act, 1881. It is printed in General Acts, 1884-67, Ed. 1909, p. 878.
2 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Acessa Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, is Vol. I of this Code.
2 Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 19 of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898). This reference should now be taken to be made to the Act of 1889—see a. S (1) of that Act, in General Acts, 1898-1808, Ed. 1999, p. 40.
3 This includes the present Presidency of Fort William in Bengal and other territory.

BENGAL ACT 6 OF 1870

(THE VILLAGE CHAURIDARI ACT, 1870).

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BENGAL ACT 6 OF 1870

(THE VILLAGE CHAUKIDARI ACT, 1870).1

(19th October, 1870.).

An Act to provide for the appointment, dismissal and maintenance of village-ohaukidars.

Whereas it is expedient to make provision for the appoint- Preamble. ment, dismissal and maintenance of village-chaukidars in the provinces subject to the Lieutenant-Governor of Bengal'; It is enacted as follows:-

1. The following words and expressions shall, in the con- Definitions. truction of this Act, have the several meanings hereby assigned to them respectively, except where a different intention shall appear from the context (that is to say) :-

the words ³ ["District Magistrate"] shall mean the chief "District officer charged with the executive administration of a district Magistrate"." in criminal matters by whatsoever designation such officer is called :

The words "chaukidari chakaran lands" shall mean lands "chaukidari which may have been assigned, otherwise than under a tempo- chakeran rary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a zamindar:

the word "zamindar" shall mean the person whose name "Zamindar." is registered in the general register of estates paying revenue directly to Government as the proprietor of an estate

¹ LEGIALATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1870, page 357; and for Proceedings in Council, see ibid. Supplement. 1870. pp. 53, 179, 305, 388, 349, 365 and 365.

page 367; and for Proceedings in Council, see ibid. Supplement. 1870, pp. 58, 179, 895, 898, 248, 365 and 385.

LOCAL EXTENT.—This Act applies to districts and sub-divisions in Bengal to which it is extended by order under s. 68—see that section, post, p. 190.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1800 (1 of 1900), s. 4 (2), in Vol. I of this Code.

EXTENSION OF PROCEDURE.—As to the application of portions of this Act to the recovery of expenses and assessments for sanitary purposes in a Union, see the Bengal Local Self-Government Act of 1886 (Ben. Act 8 of 1885), s. 118 (as originally enacted) and ss. 117 and 1180(3) (as amended by Bengal Act 5 of 1908), post, pp. 954 and 908.

Amendment Amendment Series and Children of 1871, s. 7 (post, p. 194), Ben. Act 1 of 1886, s. 1 (post, p. 975), and Ben. Act 1 of 1892, s. 1 (in Vol. III of this Code).

This includes the present Presidency of Fort William in Bengal and other territory.

The words "District Magistrate" were substituted for the words "Magistrate of the District" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code

The definition of "Magistrate" was repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 1 (1), and is omitted.

(Secs. 2-3A.)

so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rentfree tenure.

Repeal of portion of Regulation 20 of 1817.

- 2. Section 21, Regulation 20 of 1817, is hereby repealed. as to all villages to which this Act may apply.
- Appoitment of panchayats.
- *3. The District Magistrate may.—
 - (1) by an order in writing, appoint not less than three nor more than five residents in any village within the district of which he has charge to be the panchayat thereof; or
 - (2) he may, with the previous sanction of the Local Government, direct that the adult male rate-paying residents of any village shall select, according to any rules that may be prescribed by the Local Government and published in the Calcutta Gazette, not less than three nor more than five residents of of the village to be the punchayat thereof; and the District Magistrate shall, if he approves of the person so selected, appoint such persons to be the panchayat; but if in his opinion, any person so selected is, for reasons to be recorded by him in writing, unfit to be a member of the panchayat, the District Magistrate shall appoint a fit and proper resident to be a member of the panchayat:

Provided that no panchayat shall be appointed in any Bon. Act 8 of place to which the Bengal Municipal Act, 1884 has been, or 1884. may hereafter be, extended:

Provided also that the Local Government shall be entitled to prescribe that in certain specified local areas, to be notified in the Calcutta Gazette, the number of persons to be appointed

to discharge the duties of a panchayat may be reduced to one.

*3A. The District Magistrate may from time to time by an order in writing, with the sanction of the Commissioner, delegate his powers under this Act, either wholly or in part, to any Magistrate of the first class subordinate to him, or to any Magistrate in charge of a sub-division or to the District Superintendent of Police; and, by a like order, and with the same sanction may withdraw such delegated powers.

f3 The Bragal Police Regulation, 1817. It has now been wholly repealed by the Bengal Laws Ret, 1834 (Ben. Act 1 of 1914), in Vol. III of this Code.

§ This repeal does not take effect in any village or union until a chanhidar has been appointed therein nonder the provisions of this Act—set the Bengal Village Chanhidari Act, 1871 (Ben. Act 1 of 1871), a. 1, post, p. 198.

§ This section was substituted for the former a. 8 by the Bengal Village Chanhidari (Amendment) Act, 1862 (Ben. Act 1 of 1892), a. 8, in Vol. III of this Code.

§ Figure a continuation issued under this provise for Bengal as sometisated surths Risch March, 1892, see the Bengal Local Statutory Enles and Orders, 1912, Vol. 1, Pt. VI.

§ S. 4 as heaved by the Bengal Village Chanhidari (Amendment) Act, 1462 (Ben. Act 1 of 1897), a. 4, in Vol. III of this Code.

(Secs. 4-7.)

The District Magistrate may, from time to time, by an Power to order in writing under his hand, declare any local area or village. group of dwellings, within the district of which he has charge,

to be a village for the purposes of this Act.

5. Whenever the majority in number of the adult male Power to residents in any village * * 2 shall, by a writing appoint signed by them, apply to the 3 [District Magistrate] for the or application appointment of a panchayat in such village * * 4, it shall be of villages. lawful for him to appoint a panchay it under this Act in such village * * without regard to the number of houses therein contained, and all the provisions of this Act shall apply to such panchayat and to such village * **.

Whenever any member of a panchayat shall die or succession of member of cease to be a member of such panchayat, the [District panchayat Magistrate] shall, by writing under his hand, call on the remaining members of the panchayat to nominate within thirty days a fit and proper person to be appointed as member of the panchayat in the room of such member so dying or ceasing to be a member, and the [District Magistrate] shall, unless he considers such nomination improper, appoint the person so nominated to be a member of the panchayat:

Provided that if no person shall have been so nominated, or if in the opinion of the [District Magistrate] the person nominated is, for reasons to be recorded by him in writing, unfit to be appointed a member of the panchayat, the [District Magistrate] shall appoint a fit and proper person to

be a member of the panchayat.

7. No person shall be appointed to be a member of a Qualification of members of panchayat under this Act unless he be a resident in such village panchayat. or the proprietor or holder of land therein or his local agent:

Provided that such proprietor or local agent shall not be so appointed unless he be resident within one mile from some part of such village.

¹ This section was substituted for the original s. 4 by the Bengal Village Chankidari (Amendment)
Act, 1892 (Ben. Act 1 of 1892), s. 5, in Vol. III of this Code.

The original s. 4 ran as follows:

"4. If two or more villages containing together not less than eighty houses are so situate that some house in one of such villages is situate within one mile of some house in each of the others, it shall be lawful for the Magistrate to form such villages into a union, and for the purposes of this Act such union shall be deemed to be a villages into a union, and for the purposes of this Act such union shall be deemed to be a village into a union, and for the purposes of this Act such union shall be deemed to be a village into a union, and for the purposes of this Act such union shall be deemed to be a village into a union, and for the purposes of this Act such union shall be deemed to be a village of the words "Dariett Magistrate" in a. 5 were substituted for the words "Bargistrate of the district in the Jose.

4 The words "Or villages" in a. 5 were repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 5, and are omitted.

5 This section was substituted for the original s. 5 by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1896), s. 8, post, p 978. The original s. 6 ran as follows:—

"6. Whenever any member of a panchagat shall die or cease to be a member of such panchagat, the Magistrate of the district shall, by a sewed under the hand and seal, appoint cease other person to be a member of such panchagat in the place or stead of the person se driving or ceasing to be a member."

*The words "District Magistrate", in a. 6 were ambetituded for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1897 (Ben. Act 1 of 1897), s. 2 (9), in Vol. III of this Code.

(Secs. 8-11.)

Penalty on refusing to not as member of

8. If any person, appointed to be a member of a panchayat, shall refuse to undertake the office, or wilfully omit to perform the duties thereof, and shall not within [thirty days] from the date of his appointment, or from such omission, show grounds to the satisfaction of the [District Magistrate] for such refusal or omission, he shall be liable to a fine which may extend to fifty rupees:

Provided that every person who shall have paid any fine under the provisions of this section shall thereupon cease to be a member of the panchayat and shall not be liable to be re-appointed a member of panchayat for the space of a [three years] from the day of the payment of such fine.

'9. Every member of a panchayat appointed under section 3 shall be appointed for the term of three years.

Every member of a panchayat appointed under section 6 shall be appointed only for a term equal to the unexpired portion of the term for which the member whom he succeeds was appointed.

Exemption from serving on pauchaydi.

Period for which panch-ayat to be

uppointed.

•9A. No member of a panchayat, after the expiry of his term of office, shall be again appointed a member of a panchayat, without his consent till after the lapse of three years.

Appointment of fresh paneksyal.

'9B. On the expiry of the term for which the members of a panchayat were appointed, the '[District Magistrate] shall appoint a new punchayat in the manner prescribed in section 3, the outgoing panchayat continuing to exercise all the functions of a panchayat until such new panchayat has been appointed.

Power to members.

10. It shall be lawful for the [District Magistrate], by an order in writing signed by him, to remove or discharge any member of a panchayat.

711. The District Magistrate shall determine the number of chaukidars to be employed in a village:

Of CREMINIMATE 10 De employed in a village:

1 The words "thirty days" in s. 8 were substituted for the words "fifteen days" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 4, post, p. 975.

2 The words "District Magnitume" in s. 8 were substituted for the word "Magnitume" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1882), s. 2 (2), in Vol. III of this Oode.

2 The words "three years" in s. 8 were substituted for the words "two years" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1882), s. 1, post, p. 976.

4 This section was substituted for the original s. 9 by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 9, mas p. 10 of 1886), s. 9, post, p. 976.

3 The words "District Magnitume to retire from such packaged, and the person are retiring shall not without his own consent be appointed to serve on such packaged until after the Spiry of two years from the date of such his retirement.

4 Be. 9A and 9B were inserted by the Bangal Village Obsatitized (Amendment) Act, 1886 (Ben. Act 1 of 1889), s. 9, post, p. 976.

4 The words "District Magnitume" in s. 9B and 10 were substituted for the words "Magnitume of the District" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Byn. Act 1 of 1882), s. 7, of 1892, s. 7, in Vol. III of this Oode. The original s. 11 ran as follows:—

*11. The searcherst shall determine the number of cheakidars to be employed in a village:

*11. The searcherst shall determine the number of cheakidars to be employed in a village:

**11. The pancheges shall determine the number of chaskiders to be employed in a village: Provided that there shall be at least two chaskiders appointed in every village in which there are one hundred and fifty houses, and one aditional chaskider for every complete number of one hundred houses beyond anch number of one hundred and dity.

Numbers of chankidars to be deter-mined by the Magistrate. of 1870.

(Sees. 12-16.)

Provided that, without the sanction or the commissioner, there shall not be more than one choukidar for every sixty houses.

¹ 12, The salaries of chaukidars appointed shall be deter- The District mined by the District Magistrate:

Provided that such salaries shall not be less than two nor salaries of

more than six rupees per mensem.

13. The panchayat shall impose an assessment yearly salaries to be in each village equal to the amount required for the pay and provided by equipment of the chaukidars, together with fifteen per cent. above such amount, in order to provide for payment of the expenses of collection and losses from the non-realization of

the rate from defaulters. 314. All owners or occupiers of houses in any village, and Persons Hable any person who has within such village a cutcherry for to assessment.

collecting rents, shall be liable to assessment for the purposes of this Act.

15. The rate to be levied in any village for the purposes Nature and of this Act shall be an assessment according to the circums- amount of assessment tances and the property to be protected of the persons liable to

Provided that the amount to be assessed on any one person shall not be more than one rupee per mensem, and that all persons who, in the opinion of the panchayat are too poor to pay half an anna a month shall be altogether exempt from assessment under this Act.

16. The pinchayat shall, two clear months before the Time and first day of the year current in the village, make such assessment upon the several persons liable thereto, and shall enter the same in a list, which shall specify the name of each person liable to be assessed, the trade, business or other description of such person, and the amount payable monthly by such person, and such list shall be by them published in some conspicuous part of the village at least fifteen days before the expiry of the said two months.

¹This section was substituted for the original a 12 by the Bengal Village Chaukidari mendment) Act, 1892 (Ben. Act 1 of 1892), s. 8, in Vol. III of this Code. The original s. 12 gas

"12. The panchayat shall from time to time determine the monthly salaries of the chaukidars ne panerayaz anali from time to time determine the monthly separates of the canarage.

Provided that such selaries shall not be less than three nor more than six rupees per month."

² This section was substituted for the original s. 13 by the Bengal Village Chankidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 0, in Vol. III of this Code. The original s. 18 tan

as follows:—
"18. The psackayat shall raise in each village, by a yearly assessment, the amount required for the pay of the chaukidars, together with fifteen per cent. above such amount in order to provide for payment of the expenses of collection and losses from the non-realisation of the rate from defaulters."

*This section was abustizated for the original s. 14 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 10, in Vol III of this Code. The original s. 14 ran as follows:

as follows: "14. All owners or occupiers of houses in any village, and any samiadar who has within such village a cutcherry for collecting rents, shall be liable to assessment for the purposes of this Act."

As to the making of an assessment within one mouth after the appointment of a panchaput, sea the Bengal Village Chaukidari Act, 1871 (Ben. Agt 1 of 1871), ss. 2 to 4, post. p. 198.

(Secs. 17-24.)

Pewer to continue former sescenment.

The panchayat may, instead of making a new assessment, revise or continue the assessment of the current year, and the assessment so revised or continued shall be in like manner published.

Duration of

18. Every assessment so made, revised or continued shall commence and take effect upon the first day of the year current in the village next ensuing the date of publication thereof, and shall remain in force for one year, and until some other assessment properly made or revised under the provisions of this Act shall commence and take effect.

Power to review americant. 19. Any person dissatisfied with the amount at which he has been assessed may, within one month after any publication of any assessment, apply to the panchayat either orally or in writing, for a revision of the assessment, and the panchayat may confirm the assessment or amend the same.

District Magistrate may revise assessment. 20. No appeal, as of right, shall lie from any order passed by a panchuyat as regards the revision of any assessment; but the '[District Magistrate] may call for the general list of assessment in any village, and shall so call for such list on the application of ten rate-payers in such village, and may pass such orders on any list so called for as he may think proper.

Rate payable quarterly in advance.

21. Every rate to be payable under this Act shall be payable by equal '[quarterly] instalments; the instalment of rate on account of each '[quarter] shall be due on the first day of such '[quarter].

Allowance for collecting 22. Every panchayat shall appoint one of their number to receive and collect the rate, and to grant receipts for the same and to keep the accounts thereof, and it shall be lawful for the panchayat to permit the person so appointed to retain any sum not exceeding [ten per cent.] of the amount collected by him to repay the costs of such collection.

Constitution of Chaubidari

23. The preceds of every assessment to be levied under this Act in any village, together with any sum which may become applicable to the purposes of this Act, shall constitute a fund, which shall be called the *Chaukidari* Fund of such village.

Application of

If at the end of any year any surplus of the Fund may remain unexpended, such surplus shall be carried to the credit of the Chaukidari Fund for the ensuing year, and the amount to be raised by assessment in such ensuing year may in such case be reduced by the amount of such surplus.

¹ The words "District Magistrate" in a 20 were substituted for the word "Magistrate" by the Assacial Village Chankidari (Amendment) Act, 1892 (Sen. Act 1 of 1893), a. 2 (2), in Yel. III.

1 The words "quarterly" and "quarter," in a 21, were substituted for the words "monthy" and month," the response effect, by the Bengal Village Chankidari Act, 1971 (Ben. Act 1 of 1871), a. 5, peer, p. 189.

1 The words "ten per seet," in a 22 were substituted for the words "aix per cent," by the Sadgul Village Chankidari Act, 1973, of 1995), a. 7, neet, p. 275.

(Secs. 26-31.)

25. Every person liable to pay any sum assessed upon him Payment of under this Act shall, within seven days after the day upon insalment to be made with which any instalment of rate may be payable by him, pay or in seven tender such instalment to the person appointed by the days. panchayat to receive the same.

26. Immediately after the tenth day of '[quarter] the tist of defautanchayat of every village, to which the provisions of this tent to be made out. Act extend, shall prepare a list of the persons who may have failed to pay their respective instalments of the rate for such ... [quarter] showing the amount due from each of such defaulters, and shall publish such list in some conspicuous part of the village.

27. The collecting member of the panchayat shall there rower to disupon issue a writing in the form in Schedule A, signed by him, rates in the same and the same an authorizing the chaukidar, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the movable property of such defaulters, the amount of their respective arrears, together with sums equal to such

arrears respectively by way of penalty.

28. The person so authorized shall seize such movable Manner of property of such respective defaulters as he shall deem rese sufficient, and shall make an inventory of all movable property so seized, and shall at the same time give notice by beat of drum of the time and place where such movable property shall

Such time of sale shall be not less than two days nor more than five days from the time of the proclamation thereof.

29. In case any defaulter shall not, within the time time specified by such notice, pay the amount of such arrears payable by him, together with an equal amount by way of penalty, the movable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the place and time specified, and the proceeds shall be applied in discharge of such amount and penalty, and the surplus, if any, shall be returned to the person in possession of the movable property at the time of the seizure.

30. Whenever any person whose name may have been Objections to included in any list of defaulters may dispute his liability to be hade. pay the amount mentioned in such list or any portion thereof. he may apply to the '[District Magistrate] either orally or writing, stating the grounds of his objection, and the '[District Magistrate shall examine his objection and pass such order thereon as to him shall seem proper.

31. Any property distrained under the provisions of sec- Compy of tion 28 shall remain in the custody of the chaukidar, or of district

1 The word "quarter," in a 26, was substituted for the west "month," with rect, by the Rengal Village Chatchilder A48, 2674 (Bes. Ant. 2 of 1871), u. 5, goart 194. The word "District Magistates," in a 26, goart substituted for the word "Magistate."

. Son. Aut f

(Secs. 32-38.)

some other person whom the panchayat may appoint in that behalf.

All goods and chattels, except plough-cattle and tools and implements of trade or agriculture, found in or upon any house or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear.

If the goods and chattels distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage. he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Liter a year.

Irregularitie not to avoid distraint.

33. No arrears of any rate payable under this Act shall be recovered by distress after the expiration of one year from the day on which the same shall have become due.

34. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power. writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction, subject to the provisions of section 63 of this Act.

ointmen

135. (1) The panchayat shall, when a vacancy exists, nominate a person to be a chankidar under this Act, and the District Magistrate shall, if satisfied with such nomination. appoint such nominee to be chaukidar:

Provided that if the panchayat fail to nominate within a reasonable time a person to be a chaukidar, or the District Magistrate is not satisfied with such nomination, the District Magistrate shall appoint any person he thinks fit to be a chaukidar.

(2) The District Magistrate, or the panchayat with the sanction of the District Magistrate, may, from time to time, dismiss

any chaukidar so appointed.

36, 37. (Appointment of chaukidars to be registered by pelice; power of Magistrate to dismiss chaukidars). Rep. by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 12.

Power to fine

38. Every chaukidar who may be guilty of any wilful misconduct in his office, or neglect of his duty, such misconduct

I This Motion was appetituted for the original s. 35 by the Bengal Village Chankidari seasment) Act, 1862 (Ben Act 1 of 1892), s. 11, in Vol. III of this Code. The original s. 35 enskepst stall appoint the persons to be chefolikely under the Act, and may, from to time, with the emestion of the Magnitate, diships any sank chaubiders."

(Sec. 39.)

or neglect not being an offence within the meaning of the Indian Penal Code, and not being of so grave a character as in the opinion of the '[District Magistrate] to require his dismissal from his office, shall be liable to a fine which shall not exceed the amount of one month's salary.

39. Every chaukidar appointed under the provisions of Dunbe of Chambidger.

this Act shall perform the following duties:-

- 1st.—he shall give immediate information to the officer in charge of the police-station within the limits of which the village is situate of every unnatural, suspicious or sudden death which may occur, and of any offence specified in Schedule B which may be committed within his village, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray:
- 2nd.—he shall arrest all proclaimed offenders and any person who in his presence commits any offence specified in Schedule B, and any person against whom a hue-and-cry has been raised of his having been concerned in any such offence, whether such offence has been or is being committed within his village or outside of it, and shall, without delay, convey any person so arrested to the said police-station;
- 3rd.—he shall, to the best of his ability, prevent, and may interpose for the purpose of preventing, the com-: mission of any offence specified in the said Schedule:
- 4th.—he shall assist private persons in making such arrests as they may lawfully make, and shall report such arrests without delay to the officer in charge of the said police-station;
- 5th.—he shall observe, and, from time to time, report to the officer aforesaid the movements of all bad characters within his village;
- 6th.—he shall report to the officer in charge of such policestation the arrival of suspicious characters in the neighbourhood;
- 7th.—he shall report to the officer aforesaid, in a form signed by one member of the panchayat, the births and deaths, if any, which have occurred within his village at such intervals as the District Magistrate may determine;

¹ Printed in General Acts, 1884-67, Ed. 1995, p. 248.
2 The words "District Magistrate" in s. 38 were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), a. 2 (2), in Vol. 111 of this Code.
2 This section was substituted for the former s. 55 by the Bengal Village Chaukidar (Amendment) Act, 1892 (Ben. Act 1 of 1892), a. 18, in Vol. III act this Reds.



(Secs. 40-43.)

- 8th.—he shall report to the officer aforesaid the death of absence for more than two consecutive months of any member of the panchayat;
- 9th.—he shall supply any local information which the District Magistrate or any officer of police may require;
- 10th.—he shall obey the orders of the panchayat in regard to keeping watch within his village and other matters connected with his duties as chaukidar;
- 11th.—he shall assist the person collecting the rate in making such collection.

Procedure on arrest by chaukidars. 40. Whenever the chaukidar may arrest any person, such chaukidar shall forthwith take the person so arrested to the police-station within the limits of which such village is situate:

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Control of chaubidars by panchayat. morning.
41. The panchayat shall exercise a general control over the chaukidars and every member of such panchayat who may know or be informed of the commission within the village of any offence specified in Schedule B of this Act shall forthwith cause the same to be reported by the chaukidar to the officer in charge of the police-station within the limits of which the village may be situate, and, on failure of the chaukidar, such member shall himself report the same ¹ [or cause the same to be reported] to such officer.

¹ 42. All fines and penalties levied under this Act shall be credited to a District *Chaukidari* Reward Fund, the control over which shall rest with the District Magistrate.

Fines and penalties to be credited to District Chankidari Reward Fund.

! 43. Every chaukidar shall receive, quarter by quarter, the full amount of his salary from such officer '[as the Local Government may, by rules made under this Act, prescribe or direct.]

¹ These words in square brackets in a. 41 were inserted by the Bengal Village Chaukidari (Amsadhant) Act, 1886 (Ben. Act 1 of 1886), s. 9, post, p. 975

This section was substituted for the original s 42 by the Bengal Village Chaukidari (Amsadhant) Act, 1892 (Ben. Act 1 of 1892), s. 14, in Vol. III of this Code. The original s, 42 gan

as rotions:—

"48. All fines and panalties levied under this Act shall be carried to the credit of the Village

"Chashidari Fund and be applied as a portion thereof."

B This section was ambetituted for the original s. 48 by the Bengal Village Chastideri, (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 10, post, p. 276. The original s. 43 ran as ablicants.

^{# 48.} Beery chemister shall receive, month by month, the fall amount of his salary from the member of the sensingst appointed to collect the tex."

[&]quot;These words in ornam banckets in s. 45 were substituted, for the words "or persons as the Emphisise shall appears" by the design Village Chanktlard (Amendment) for, 1999 (Box. Ast 1

(Secs. 44-46.)

144. Within thirty days after the end of each quarter, Pan every panchayat shall pay or remit to such officer or person quarterly ² [as the Local Government may prescribe or direct] under the last foregoing section a sum equal to the pay of the chauktdar for the quarter, or any smaller amount which may stand to the credit of the Chaukidari Fund of the village.

45. If it shall appear to the [District Magistrate] that Mode of the there is no money to the credit of the Village Chnukidari der salar Fund, and that the panchayat shall not have taken sufficient steps to realize from defaulters the arrears due from them, the [District Magistrate] '[may issue his warrant] for the realization of the chaukidar's pay from the members of the panchayat by distress and sale of their movable property, and shall therein charge some person, therein named, with the execution thereof;

and upon such warrant such proceedings shall be had as hereinbefore directed to be had on any writing issued for the recovery of any arrears of the tax by this Act directed to be levied;

and the amount due to such chaukidar shall be paid to him out of the amount so levied, and the residue thereof, after payment thereout of all costs and expenses incurred in or about the execution of such warrant, shall be paid to the persons from whom such distress shall have been so levied.

⁵ [An application for the appointment of a tahsildar under section 46A shall not of itself be deemed a sufficient step to realize from defaulters the arrears due from them.]

46. Any member of a panchayat, from or by whom Reimburg any sum shall have been levied or paid under the provisions bett special amount so levied from or paid by him from any surplus of salary is paid. the Village Chaukidori Fund which may remain at the end of the year in which such sum shall have been so levied or paid.

¹ This section was substituted for the original s. 44 by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 11, post, p. 876. The original s. 44 ran as follows:—

^{44.} Whenever the salary of any month shall not be paid in full to any chaukidar on or before the 15th of the month following, such chaukidar may apply to the Magistrate, who shall call upon the panchagar within 10 days to show cause why they should not pay the amount due to such chaukidar."

² These words in square brackets in x 44 were substituted for the words "as the Magistrate may appoint" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 16, in Vol. III of this Code.

² The words "District Magistrate", in a. 45, were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code.

⁴ The words "may issue his warrant" in s. 45 were substituted for the words "shall issue his warrant" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 19, sets. 9.76.

post, 1976.

This paragraph was added to s 45 by the Bengal Village Chaukidari (Amandment) Act, 1806 (Ben. Act 1 of 1886), s. 18, post, p. 976.

(Secs. 46A-47.—Part II.—Chauktdari Chakaran Lands.— Sec. 48.)

Appointment of takeildar.

46A. The District Magistrate may at any time, on the application of the panchayat of any village, or of his own motion if, in his opinion, the collection of the rate is badly carried out, or if the chaukular is not regularly paid, appoint a tahsildar to assist the person collecting the rate; and such tahsildar shall exercise all the powers vested in the panchayat for the collection of the said rate; and the District Magistrate shall, on a like application, and he may of his own motion, revoke such appointment.

Remuneration of takeildur.

*46B. Every tahsildar appointed under the last foregoing section shall be remunerated at such rate and in such manner as the '[District Magistrate] may, from time to time, with the sanction of the Commissioner of the Division, prescribe; and such remueration shall be levied from those who have failed to pay their chaukidari assessments in the same manner and in the same proportion as the chaukidari assessment:

Provided that one tahsildar may, in the discretion of the [District Magistrate], be appointed for more than one village.

Power to revise assessment. 47. If it shall appear to the '[District Magistrate] that the deficiency of the funds to the credit of the Village Chaukidari Fund has been caused by an erroneous assessment, the '[District Magistrate] shall call for the assessment and revise the same as he shall think proper, and shall remit the same to the panchayat, and such panchayat shall forthwith proceed to levy the sums respectively appearing to be due by such revised assessment.

'PART II.

Chaukidari Chakaran LANDS.

Chaubidari chabaran lands to be transferred to saminders, **42.** All chaukidari chakaran lands before the passing of this Act assigned for the benefit of any village in which a panchayat shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the zamindar of the estate or tenure within which may be situate such lands.

¹ This section was substituted for the former s. 46A by the Bengal Village Chankidari (Americanes) Act, 1892 (Ben. Act 2 of 1892), s. 17, in Vol. III of this Code. The former section ran an able we.

^{* 46}A. The Magistrate may at any time, on the application of the penchages of any village, appoint a takesider in such village to assist the collecting member of anoh penchages, and such takesider shall severouse all the powers vested in the penchages for the collection of the chembideric assessment, and the Magistrate shall, on a like application, revoke such appointment.

^{5.8. 46.}B was inserted by the Bengal Village Chankidari (Amendment) Act, 1886 (Ben. Act 1 & Laby), s. 18, post, p. 978.
5 The words "District Magnistrate" in ss. 46B and 47 were substituted for the word "Magnistrate" by the Bangal Village Chankidari (Amendment) Act, 1892 (Ben. Act 2 of 1892), s. 2 (2), in Vel. 411 of this Coll.

^{*} As to the application of Part 11 to Chaukidari Chakurun lands assigned before the communication of this Ass for the bounds of my part of a municipality, see the Bongal Municipal Act, 1280 (Res. And S of 1284). Both Char. As So. 7

(Part II.—Chaukidari Chakaran Lands.—Secs. 49-54.)

49. All lands so transferred shall be subject to an assess. Assessed to be for ment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and which assessment shall be made by the panchayat of the village.

50. Such assessment when made by the panchayat shall collector to be submitted to the Collector of the district, and he or any other officer exercising the powers of a Collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the zamindar to contest the assessment before it is so approved), and after such approval the Collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such zamindar such land subject to the assessment so approved.

51. Such order shall operate to transfer to such zamindar Effect of the land therein mentioned subject to the amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the zamindar may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

52. The amount of the assessment mentioned in such Asses order shall be a permanent yearly charge on such land, and be pershall be payable to the collecting member of the panchayat lands. yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

53. Every such assessment shall be deemed to be a Mode of rea demand to be realized in the manner hereinafter provided.

54. Whenever such assessment shall be in arrear for the Notice of space of fifteen days after it shall have become payable, the arrear. collecting member of the panchayat shall forward to the Collector of the district in which the land so assessed is situate notice of the amount of such arrear and the name of the person liable to pay such assessment, in the form in Schedule D annexed to this Act.

55. Immediately after the receipt of the said notice the Mode and effect of sale. Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed, without any preliminary notice for payment, to issue a notification for sale under section 6 of Act 11 of 1859, passed by the Legislative Council of India:

and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of Act 7 of 1868 passed by the Lieutenant-Governor of Bengal in Council;

l The Bougal Land-revenue Sales Act, 1856. It is printed in Vol. 1 of this Code.

The Bougal Land-revenue Sales Act, 1868. It is printed sate, p. 157.

(Part II.-Chaukidari Chakaran Lands.-Secs. 56-80.)

and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

Application of proceeds **56.** Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the panchayat, within one week after such sale shall have become final, the amount due for arrears of such assessment, and pay the balance of such proceeds to the person maned in the notice from the collecting member of the panchayat as the person liable to pay the assessment of such land.

Right to service from accupier of transferred land to cease **57.** When any land shall have been transferred to any *zamindar* under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

Appointment of commission. 58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the Lieutenant-Governor of Bengal, by an order to be published in the Calcutta Gazette, to appoint a commission, consisting of one or more persons, to ascertain and determine the chuukidari chakaran lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

Power to refer to commission question relating to challers a land. 59. Whenever in any district in which such commission shall have been appointed, any question shall arise whether any or what lands are chankidari chakaran lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report orime to the police, it shall be lawful for such commission to inquire into such question.

Powers of Distribution. **30.** In inquiring into such question the commission shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation 7 of 1822 and the Regulations and Acts amending the same upon a Collector making a settlement of land-revenue.

A hew the Governor in Council of Fort William in Bengal—see the Bengal, Ribar and Orisas and Assem Laws Act, 1912 (7 of 1912), v. 8, and Bolt. D. items I and 2, in Vol. I of this Code.

**Spra a list of orders made under section 56 for Bengal as constituted on the 51st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, vol. 1, 2v. VI.

**O' The Bengal Land-sevenne Settlement Regulation, 1832: It is printed in Vol. I of this Code.

(Part II.—Chaukidari Chakaran Lands.—Part III.—Miscellaneous Provisions.—Secs. 61-63.)

61. Such commission shall demarcate the boundaries of any Dubber of lands which they may determine to be chaukidari chakaran lands or other lands before the passing of this Act assigned for the the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be chaukidari chakaran lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such land be or be not chaukidari chakaran lands or other lands as aforesaid.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

PART III.

MISCELLANEOUS PROVISIONS.

162. All powers vested in the punchayat for the nomi- Powers of the nation and d smissal of chaukidars and for making the assessments hereinbefore directed to be made may, in case the panchayat, after a notice in writing from the District Magistrate to exercise such powers, or any of them. refuse or after the Magistrate. lapse of a reasonable time in that behalf, neglect forthwith to

exercise the same, be exercised by the District Magistrate.

63. No action shall be brought against the [District 148] Magistrate]. nor against any panchayat, nor against any member thereof, nor against any of his or their officers, nor against any person acting under his or their direction,

for anything done or professing or purporting to be done under this Act.

until the expiration of one month next after notice in writing shall have been delivered or left at the office of the ^a [District Magistrate] and at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff;

¹ This section was substituted for the original s. 62 by the Bengal Village Chankidari mendment) Act, 1892 (Ben. Act 1 of 1892), s. 18, in Vol. III of this Code. The original s. 62 ran

[Amendment] Act, 1892 (Ben. Act 1 or 1892); s. 10, in vol. 11 of 1892 and for fixing the number of chaukidars, to be appointed, and the rate of their pay, and for making and levying the sessements hereinbefore directed to made, may be exercised by the Magistrate or any person whom the Magistrate may, by any writing under his hand, authorise in that behalf, in case the peachaget shall, for fifteen days after a notice from the Magistrate to exercise such powers or any of fitten days after a notice from the Magistrate to exercise such powers or any of them, refuse or neglect to exercise the same."

3 The words "District Magistrate", in s. 68, were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vel. 131 at this Code.

(Part III .- Miscellaneous Provisions. - Secs. 64-68.)

and, unless such notice be proved, the court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards;

and, if any person to whom any such notice of action is given shall before action brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

64. The Commissioner of Circuit shall have a general controlling power over all proceedings of panchayats

and '[District Magistrates] under this Act

65. The Lieutenant-Governor of Bengal' may, from time to time, frame rules for the guidance of the panchagats, for regulating the practice and procedure of any commission in trying or determining any question referred to them, and for any other purposes connected with this Act, and may, from time to time, alter, vary, or revoke the same, and shall publish every such rule or alteration, variation or revocation of a rule in the Calcutta Gazette; and the rules for the time being in force shall, from their publication, have such and the same force and effect as if they were herein enacted.

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any zamindar, under any law in force at the time of the passing of this Act to report crimes or offences occurring within his estate or

tenure.

67. Nothing in the Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a panchayat may not be appointed, of an officer to keep watch in such village and to report crime to the police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him

appointed, as if this Act had not been passed.

68. This Act shall commence and take effect in those districts or sub-divisions of districts in the provinces subject to the Lieutenant-Governor of Bengal' to which the said Lieutenant-Governor's shall extend it by an order published in the Calcutta Gazette; and thereupon this Act shall commence

ales for uldance of

anchayat.

³ The words "and Magistrates," which were repealed by the Bengal Village Chankider' mendments' Act, 1892 (Ben. Act 1 of 1892), s. 2 (3), are omitted.
3 The words "District Magistrates" in s. 61 were substituted for the words "Magistrates Bankers," by the Bengal Village Chankider (Amendment) Act, 1892 (Ben. Act 1 of 1893), s. 2 (3), Vol. 117 of this Code.
3 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and heasth Laws Act, 1812 (7 of 1912), s. 8, and Sch. D. them 1 and 2, th Vol. I of this Code.
4 For Bats of rules made under a So for Bengal ab constituted on the Size March, 1912, see a Bengal Local Statutory Bules and Orders, 1812, Vol. I, Pt. VI.
5 This Apoliance the present Presidency of Fort William in Bengal and Other Warttory.
5 Toe a list of orders made inder a So for Bengal as constituted on the Size March, 1973, see the negational Statutory Rules and Orders, 1812, Vol. I, Pt. VI.

of Hillian

(Part III — Miscellansons Provisions.—Sec. 69.— Schedules A and B.)

and take effect in the districts and sub-divisions of districts named in such order, on the day which shall be in such order provided for the commencement thereof.

69. This Act may be called the Village Chaukidari Act, Short title,

1870.

SCHEDULE A.

(Referred to in section 27.)

Form of Distraining Warrant.

Act 6 of 1870.

VILLAGE Chaukidari FUND.

On behalf of the panchayat of (). Whereas the several persons named in the list at foot hereof have made default in payment to the said panch tyat of the sums in the said list set opposite to their respective pames, you

said list set opposite to their respective names, you are hereby authorized and required to levy by distress and sale of a sufficient portion of the movable property of the said defaulters the said several sums set opposite to their respective names together with the additional sums by way of penalty respectively, equal to the sums set forth. Dated day of

18

(Sd.) R. B.,

Collecting member.

Name and description.	Amount.	When due.	Penalty.
B. G.	1-0	1 $Baisakh$	1-0
К. В.	0-2	1 .,	0-2

SCHEDULE B.

(Referred to in sections 39 and 41.)

Offences to be reported and for which a chaukidar may arrest.

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, rebbery, theft, mischief by fire, house-breaking, counterfeiting coins, causinggrievous hurt, riot, administering stupefying drugs, kidnapping, and all attempts and preparations to commit, and abetments of the said offences.

¹This Schedule was substituted for the original Schedule B by the Bengal Village Chankideri (Amendment) Act, 1892 (Bon. Act 1 of 1893), a. 79, in Vol. III of this Code.

[Bon. Act 6 of ture:]

(Schedules C and D.)

SCHEDULE C.

(Referred to in section 50.)

Form of Transferring Order.

District of

J, Collector of

do by this order under my hand made in pursuance of Act 6 of 1870, passed by the Lieutenant-Governor of Bengal in Council, transfer to

, the chaukidari chakaran lands of the village of
, in the said

bounded and containing bighas cottabs; to hold unto the said his heirs and assigns

subject to the annual assessment of rupees payable under the provisions of the said Act to the Chaukidari Fund of the said village and also subject to all contracts binding the said in respect of any lands, portion of the said situated within the said village.

The day of

(8d.) J. S.

Collector of

18 .

SCHEDULE D.

(Referred in section 54.)

Form of Notice of Arrears of Assessment on Land.

Panchayat of

To A. B., Esq., Collector of

SIR.

I hereby notify to you that the sum of Rs. being for one year's assessment payable in respect of the chaukidari chakaran lands of this village transferred to the zamindar of became due on the

day of and that the same is still unpaid, and that of is the person liable to pay such assessment.

The day of

(Sd.) B. F.,

Collecting Member of Panchayus.

BENGAL ACT 1 OF 1871

(THE BENGAL VILLAGE CHAUKIDARI ACT, 1871)1.

(25th January, 1871.)

An Act to amend the Village Chaukidari Act, 1870.

Whereas it is expedient to amend the provisions of the Preamble. Village Chaukidari Act, 1870°; It is enacted as follows:-

1. Nothing in the said Act shall be held to repeal the act not to provisions of section 21. Regulation 20 of 1817 in any village charling the charling and the said act not be provisions of section 21. Regulation 20 of 1817 in any village charling the said act not to provisions of section 21. Regulation 20 of 1817 in any village charling the said act not to provisions of section 21. or union until a chaukidar shall have been appointed therein appointed.

under the provisions of the said Act.

2. Whenever a panchayat shall have been appointed in Panchayat any village, the Magistrate may direct that such panchayat cases to shall, within one month after their appointment, make an make make an assessment for the residue of the year according to within one the year current in the village, upon the persons liable to the payment of the chaukidiri rate in such village, and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act.

Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

3. Every assessment so made shall commence and take com effect upon the expiration of fifteen days from the publication of such list.

4. Every such assessment shall be deemed to be an assess- Effect of ment made in pursuance of the provisions of the said Act, and the amounts thereby assessed may be collected and enforced accordingly.

¹ BRORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), 8ch. I—see Vol. I of this Code That Act is now known as the Amending Act, 1908—vide Act io of 1914, 8ch. II.

LEGISLATUE PAPERS.—For Statement of Objects and Reasons, see Calcutz Gazette, 1870, pp. 2316; and for Proceedings in Council, see ibid, Supplement, 1870, pp. 777, 790, 887; ibid, Supplement, 1871, page 27.

LOCAL EXTENT.—This Act is to be read with, and as part of, the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870)—see a. 7, post, p. 194. Its local extent is therefore the same as that of the latter Act, as to which see footnote on p. 176 casts.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), printed in Vol. I of this Code.

2 Trince assis, p. 176.

2 This Bangai Police Regulation, 1817. It has now been wholly repealed by the Bengai Laws, Act, 1914 (Sen. Act 1 of 1914), in Vol. III of this Code.

THE BENGAL VILLAGE CHAUKIDARI ACT, 1871.

(Secs. 5-7.)

Bate payable quarterly instead of monthly. 5. In section 21 of the said Act 6 of 1870¹, the word, "quarterly" shall be substituted for the word "monthly," and in sections 21 and 26 the word "quarter" shall be substituted for the word "month" wherever such word occurs in the said sections; and the said sections shall be read and construed as if the words hereby directed to be substituted had been originally inserted in place of the words for which they are hereby respectively directed to be substituted.

8. (New clause substituted in section 39 of Ben. Act 6 of 1870). Rep. by the Repealing and Amending Act, 1897 (5 of 1897)

Construction

7. This Act shall be read with, and as part of, the said. Act 6 of 1870.

¹ The Village Chankidari Act, 1870. It is printed ante p. 175.

BENGAL ACT 2 OF 1871

THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT.

(25th January, 1871.)

An Act to amend the procedure for the recovery of arrears of land revenue in respect of tenures not being estates.

Whereas it is expedient to amend the procedure for the Preamble. recovery of arrears of land revenue in respect of tenures not being estates; It is enacted as follows:-

Act 7 of 1868, passed by the Lieutenant-Governor of Bengal Construction Council, shall be read and construed as if in place of of Act. section 11 thereof the following section were inserted and substituted:-

11. (Printed ante, p. 160.)

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1903), Sch. I—see Vol. I. of this Code. That Act is now known as the Amending Act, 1938—side Act 10 of 1914, Sch. 11.

Act 10 of 1914, Sch. 11.

LEGHSLATIVE PAPEIR.—For Statement of Objects and Reasons, see Calcutta Gazette, 1870, page 2457; and for Proceedings in Council, see ibid, Supplement, 1870, pages 777 and 886; ibid, Supplement, 1871, pages 30

LOOAL EXTENT.—Since this Act has no local extent clause, and merely amends the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), it has the same local extent as that Act and the Bengal Land-revenue Sales Act, 1859 (11 of 1859), printed in Vol. 1 of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), printed in Vol. I of this Code.

BENGAL ACT 4 OF 1871

(THE PCRI LODGING-HOUSE ACT, 1871).

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BENGAL ACT 4 OF 1871

(THE PURI LODGING-HOUSE ACT. 1871) 1.

(5th April, 1871.)

An Act for the better sanitation of Puri o o o and regulation of lodging-houses therein.

'An Act for the better sanita-tion of Puri and other fowns in Orissa and regulation of lodging-houses therein.

mamble.

* Whereas it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Puri, and on the main lines of road leading to Puri, and for the better sanitation of Puri *

Whereas it is expedient to Preamble. make provision for the licensing and regulation of pilgrims' lodging-houses at Puri and on the main lines of road leading to Puri, and for the better sanitation of Puri and other

towns in Orissa; It is enacted as follows:-

It is enacted as follows:-

1. The words and expressions following shall, in this Act, ation. have and bear the meanings and construction hereby assigned to them, unless there be something in the subject or context repugnant to such meaning or construction, that is to say:-

Lodger."

7the word "lodger" shall "Lodger." the word "lodger" shall mean a pilgrim liable to pay mean an inmate liable to pay

1 Lewislative Papens.—For Statement of Objects and Reasons, see Calcutta Gasesta, 1871, page 182, and for Proceedings in Council, see ibid, Supplement, 1871, pages 23, 30, 127, 150 and 185.

LOGAL EXTENT.—This Act extends proprio vigore only to (1) Purl and (2) main lices of read leading to Purl—see the preamble and s. 2. Power was given by section 39 to extend the Act to certain other places; but that power, it is understood, was never exercised, and the section has since been formally repealed.

Beu. Act 2 of 1879, s. 3 (post, p. 383), empowers the Local Government to extend Ben. Act 4 of 1871, are any part thereof, by notification, to any town or place to or through which people goes pilgrimage, and to the lines of road leading thereto. When so extended, certain portions of the Act of 1871 are subject to modification—see Ben. Act 2 of 1879, s. 8, post, p. 883.

For a list of places to which Ben. Act 4 of 1871, as samended by Ben. Act 2 of 1879, has been extended under s. 8 of the latter Act, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

The application of Ben. Act 4 of 1871 is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (3), in Vol. I of this Code.

OTHER ENACTMENTS.—For Indian enactments in force in Bengal as to the carriage of pilgrims

by sta, see(g) the Native Passenger Ships Act, 1887 (10 of 1887), in General Acts, 1887 97, Ed. 1999, p. 36;
(5) the Pilgrim Ships Act, 1895 (14 of 1895), in General Acts, 1887-97, Ed. 1998, p. 497, and
(c) the Protection of Muhammadan Pilgrims Act, 1896 (Ben. Act 1 of 1896), ss. 9 to 27, in
Vol. III of this Code.

Cot the Protection of Munammacan Pilgrims Act, 1899 (1801. Act 1 of 1896), ss. 9 to 17, in Vol. III of this Code.

For references to enactments giving control over the apread of infectious disease, see head "Infectious disease" in the Index to the Indian Statutes, Rd. 1911, p. 267.

The title and preamble are in force in this form in Wasters Bengal.

The words "and other to was in Crissa," in the title and preamble, were repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 2, and see outsided.

The title and preamble are in force in this form in Eastern Bengal.

The differences in the title and preamble as in force in Western Bengal and in Hastern Bengal, respectively, ile in the words printed in italics.

The definition of "lodger" is in force in Western Bengal and in Eastern Bengal, respectively, it is in the words printed in italics.

The differences in this definition, as in force in Western Bengal and in Eastern Bengal, respectively, it is the words printed in italics.

The words "a pligrim" in italics.

The words "a pligrim" in italics.

The words "a pligrim" in italics.

The differences the purit Lodging-word (Amendment) Act, 1968 (Ben. Act 8 of 1968), a. 5 (1), in Vol. III of this Code.

(Secs. 2, 3.)

hire for accommodation in any hire for accommodation in any house; 'and shall include a person who pays or delivers to his Panda, or to any other person on behalf of his Panda, money in a tump sum, or property, or both, in consideration for the provision of accommodation and bodily comforts by such Panda or other person in any place other than the place of residence of such Panda ;

house;

" O w ner."

the word "owner" shall mean the person entitled to the immediate possession of any house;

"Lodging-house."

the expression "lodging-house" shall mean a house licensed under this Act for the reception of lodgers;

" Keeper of a lodging-bouse."

the expression "keeper of a lodging-house" shall mean the person to whom a license for the reception of lodgers in any house under this Act shall be granted;

"The Magis-

the expression "the Magistrate" shall mean the Magistrate of the district of Puri or of any other district or part of a district to which this Act may be extended, or other officer in charge of the office of such Magistrate, or specially invested. with power under this Act;

"The Health Officer."

the expression "the Health Officer" shall mean the person whom the Lieutenant-Governor of Bengal shall appoint under this Act.

Appointment of Health

2. The Lieutenant-Governor of Bengul' is hereby empowered to appoint a Health Officer to control and direct the sanitation and conservancy of the town of Puris and of the main lines of road leading thereto.

Power to Mastrate to ant license.

It shall be lawful for the Magistrate, upon the application of the owner of any house in the town of Puri to grant to such applicant a license for the reception of lodgers in his said house, if the Magistrate be satisfied that such house is fit to be used as a lodging-

¹ These words in itslies in s. 1 were added, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 3 (2), in Vol. III of this Code.

8 Now District Magistrate—set the Code of Criminal Procedure, 1838 (5 of 1898), s. 3 (2), in Vol. III of this Code.

8 For an order made under this power for Bengal as constituted on the Sist March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

9 Now the Governor in Council of Fort William in Bengal—see the Bengal, Binar and Orders, 1912, vol. I, Pt. VI.

9 Now the Governor in Council of Fort William in Bengal—see the Bengal, Binar and Orders, 1912, vol. I, Pt. VI.

18 For all tist of applointments made under section 2 for Bengal as constituted on the Sist March, 1912, vol. I, Pt. VI.

19 In places to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Res. Act 2 of 1879), s. 3, the name of the place concerned is substituted for "Puri" in ss. 2 and 1879 (Bes. Act 2 of 1879), s. 3, post, p. 388.

18 Formula words in s. 2, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are semitted. That Act is now known as the Amending Act, 1908 Act 10 of 1914, Sch. II.

4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be in such form as the Lieutenant-Governor's may, by notification, prescribe in this behalf, and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints.

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be in such form as the Lieutenant-Governor may, by notification, prescribe in this behalf.

'4. The application for such Found license as in the preceding for license section is mentioned shall be in writing, and shall be *in the* form set forth in Schedule A. of this Act, and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law for the verification of plaints.

The license for the reception form of of lodgers to be granted by the Magistrate under this Act shall be in the form s t forth in Schedule B of this Act.

'orm of loanse

5. The Health Officer shall, when required by the Magistrate the trate or the owner of any house, certify to the Magistrate the when require sanitary state and condition of such house, and the nature and longing beautiful to the condition of th extent of the accommodation which such house is capable of house. affording to lodgers.

6. No license for the reception of lodgers shall be Bestriction granted under this Act by the Magistrate, unless the Health construction of the Magistrate and to the Magistrate that in his judgment the house, for the licensing of which for the reception of lodgers application shall have been made as aforesaid, is sufficiently ventilated, and has, within a reasonable distance from such house, a sufficient supply of water fit for human consumption, and also sufficient privy accommodation, and is otherwise fit for the reception of lodgers.

The said Health Officer shall also certify to the Magistrat the largest number of lodgers which such house can, having regard to the number of persons permanently residing therein, accommodate with safety to the health of such lodgers; and no license under this Act shall be granted by the Magistrate for the reception in any house of any number of lodgers in excess

¹ Section 4 is in force in this from in Western Bengal.

The differences in s. 4, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

These words in italics in s. 4 were substituted in Western Bengal, for the words "in the form set forth in Schedule A of this Act," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 4 (a), in Vol. III of this Code.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch D, item 1, in Vol. I of this Code.

For a notification issued under section 4, for Bengal as constituted in the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

See the Code of Civil Procedure (Act 5 of 1908), Sch. I, Order VI, rule 15, in General Acts, 1904-09, Ed. 1909, p. 228.

These words in italies in s. 4 were substituted, in Western Bengal, for the words "in the Scene statistic Bohedule B of this Act", by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 4 of 1908), s. 4 (5), in Vol. III of this Code.

(Secs. 7, 8.)

of the number of lodgers which the Health Officer shall have so certified as aforesaid to be the largest number which such house could accommodate with safety to the health of such lodgers.

Fine on lodging-house keeper not taking out license.

Fee tor Health

and for

Officer's certificate,

• * Every owner ¹**7.** of any nouse in the town of Puri 3, not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding *five rupees for every lodger for each day or night during any part of which such lodger shall be an inmate of such house.

88. There shall be charged upon every certificate of the Health Officer, issued upon an application therefor by the owner of any house, a fee of

one rupee; and upon every license a fee shall be payable, criculated upon the entire number of lodgers which is mentioned in the certificate, at such rate, not exceeding one rupee for each lodger, as the Lintenant-Governor 16 may, by

notification, "direct.

Every owner Fine on lodging-house of any house in the town of keeper not keeper not loud on loud a taking out Puri, not licensed as a lodg- taking license. ing-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding two rupees for every lodger for each? night during any part of which such lodger shall be an inmate of such house.

B8. There shall be charged Fee for Health upon every certificate of the officer's Health Officer issued upon an certification and feeting application therefor by the license owner of any house, a fee of one rupee; and upon every license, a fee, calculated at the rate of eight annas 18 for each person, upon the entire number of lodgers mentioned in such license shall be payable.

¹ Soction 7 is in force in this form in Western Bengal.

The differences in a. 7, as in force in Western Bengal and in Kastern Bengal, respectively, lie in the words printed in Italies

§ Formal words which were repealed by the Repealing and Amending Act, 1963 (1 of 1963), are

*Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

*In places to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 3, the name of the place concerned is substituted for "Puri" in \$.7-ase Ben. Act 2 of 1879, s. 3, post, p. 383

*This word "five" in s. 7 was substituted, in Western Bengal, for the word "two," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 5 (b), in Vol. III of this Code.

*The words "day or" in s. 7 were inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 5 (b), in Vol. III of this Code.

*Boction 7 is in force in this form in Kastern Bengal.

'In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Bettenion) Act, 1879 (Ben. Act 2 of 1879), s. 3, the words "day or " are inserted after this word "each "in s. 7—see Ben. Act 2 of 1879, s. 3, between the Bengal.

The difference in S. 8, as in force in Western Bengal.

The difference in S. 8, as in force in Western Bengal and in Eastern Bengal, respectively, Hes in the words printed in italics

*These words in faliacs in s 8 were substituted, in Western Bengal, for the words "a fee, calon-lated at the rate of eight annas for each person upon the entire number of lodgers mentioned in such license shall be payable," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 6, in Vol. III of this Code.

18 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

18 For a list of notifications issued under s. 8 for Bengal as constituted on the Sist March, 1912.

18 Bention 8 is in force in this form in Eastern Bengal.

18 In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 5, for the words "the rate of eight armas" i

(Secs. 9, 10.)

Duration of

19. Every license under this Act shall, unless revoked or suspended, continue and be in force 'till the thirty-first

ower to odging-

day of December of the year in which it is granted. 10. 'It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any time to enter into any lodginghouse, and to inspect and

examine the same and every part thereof, not being in the exclusive use and occupation of women who, according to the custom and manners of the country, ought not to be compelled to appear in public:

compelled to appear in public: Provided always that if, in the judgment of the Magistrate. such reason shall exist as to necessitate an entry into, and inspection and examination of, such apartments so exclusively used and occupied by such women as aforesaid, it shall be lawful for the Magistrate, upon reasonable notice of such his intention being affixed to the house in which such women are residing, to enter into and inspect and examine, or to authorize under his hand any other person to enter into and inspect and examine, such apartments of such women as aforesaid.

⁷Provided, further, that no entry, inspection or examination shall be made between the hours of 9 P.M. and 6 A.M. except by-

(a) the Magistrate himself.

or

(b) the Health Officer, if he is also the Civil Medical Officer of the district, or

this Act shall, unless revoked license. or suspended, continue and be

in force for twelve calendar months from the day of its 10. It shall be lawful for Power to the Magistrate or the Health inspect Officer, or for any other person lodging houses.

whom the Magistrate shall

by any writing thereunto

authorize, at any reasonable time to enter into any lodging-

house, and to inspect and

examine the same and every

part thereof, not being in the

exclusive use and occupation

of women who, according to

the custom and manners of

the country, ought not to be

¹ Section 9 is in force in this form in Western Bengal.

The difference in 8.9 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

These words in italics in 8.9 were substituted, in Western Bengal, for the words "for twelvecalendar months from the day of its date" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 7, in Vol. III of this Code.

Section 9 is in force in this form in Bastern Bengal.

This paragraph of s. 10 is in force in this form in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 8 (2), and is omitted.

The difference in the first paragraph of s. 10 as in force in Western Bengal and in Rastern Bengal, respectively, lies in the word printed in Italics.

This proviso was added to s. 10, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 8(2), in Vol. III of this Code.

(Secs. 11-13.)

(c) an officer, not below the rank of Sub-Deputy Magistrate or Sub-Deputy Collector, who is authorized in writing in this behalf by the Magistrate.

Power to ex-empt lodging-house from inspection.

11. It shall be lawful for the Magistrate to exempt from inspection the house or portion of a house occupied by any lodger, so long as they shall be occupied by such lodger, or until further order by the Magistrate.

Persona authorized to inspect deem-ed public servants.

¹11A. Every person who is authorized in writing under section 10 to enter into. inspect and examine any lodging-house shall be deemed to be a public servant within the meaning of the Indian Penal Code.2

45 of 1860.

Keeper of lodging-house to produce license.

12. Every keeper of a lodging-house shall produce to the Magistrate, or any officer by the Magistrate authorized to demand the same, the license of such house, whenever he shall be thereunto required by the Magistrate or such officer.

Keeper of ladging-house to record name of erson left

12A. Every keeper of a lodging-house shall maintain a register, and shall record therein the name of the person whom he leaves actually in charge of the lodging-house during each period when such keeper is absent therefrom.

'13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death, or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such b13. Every keeper of a keeper of lodging-house shall make a to report report, to the person in charge accidents, deaths and subpass and su of the nearest police-station, sickness and of each birth, death or grave names of persons in accident, or serious sickness loging-house, which may occur in the lodg-ing-house of which he is keeper, forthwith after such

Section 11A was inserted for Western Bengal, by the Puri Lodging-house (Amendment) Act
 (Ben. Act 3 of 1908), s. 9. in Vol. 111 of this Code.
 Printed in the General Acts, 1834-67, Ed., 1909, p. 248.
 Section 12A was inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act,
 (Ben. Act 3 of 1908), s. 10, in Vol. 111 of this Code.
 (Bection 12 is in force in this form in Western Bengal and in Kastern Bengal, respectively,
 (Bection 13 is in force in this form in Eastern Bengal)
 (Bection 18 is in force in this form in Eastern Bengal)

(Secs. 14-16.)

birth, death or accident or sickness shall have occurred; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been 'lodgers' of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

Keeper of lodging-house to expose notice.

- 214. (1) Every keeper of a lodging-house shall expose, and keep exposed, on a conspicuous portion of the front of such house, a notice showing the number of the license and the number of lodgers which he is licensed to accommodate.
- (2) Such notice shall be plainly and legibly inscribed in the Bengali, Hindi and Uriya characters.

birth, death or accident or sickness shall have occurred; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been inmates of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

a lodging-house shall exhibit, keeper to exhibit and keep exhibited, on a con- number of spicuous portion of the front of house. such house, the number of the license of such house and the number of lodgers which such person is licensed to accommodate, plainly and legibly set forth in Bengali and Uriya characters.4

15. Upon the inspection and examination of any longing-neper we be house, the Magistrate or Health Officer or other person authorized as aforesaid to make such inspection and examination examination of lodging-15. Upon the inspection and examination of any lodging- Beport to be shall record in a register-book to be kept for that purpose a house. succinct report of the result of such inspection and examination.

16. Every person who shall make any application, state- Statement ment or report, in pursuance of the provisions of this Act, under Act to be true. shall be deemed to have been bound by express provision of law to state the truth therein.

¹ The word "lodgers" in italics in s. 13 was substituted, in Western Bengal, for the word "inmates" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 11, in Vol. III of this Code.

⁸ This section was substituted for the original s. 14, for Western Bengal, by

Vol. 111 of this Code.

*This section was substituted for the original s. 14, for Western Bengal, by
the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 12, in Vol. III of
this Code.

The differences in s. 14 as in force in Western Bengal and in Eastern Bengal, respectively, the

The differences in s. 14 as in force in western Bengal and in Eastern Bengal, respectively, he in the words printed in its lies.

* Section 14 is in force in this form in Eastern Bengal.

* In places in Eastern Bengal to which this Act has been extended under the Puri Lodginghouse (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 3, the words "in the character of the vernacular of the district" are substituted for the words "in Bengali and Uriya characters" in a 14—see Ben. Act 2 of 1879, s. 8, post, p. 888.

Penalties

117. 3(1) Every keeper of a lodging-house

in which there shall be, at any time, a number of a lodgers in excess of the aggregate number of 'lodgers resident in such house at the date of the application for the license thereof a number of lodgers in excess of the number of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be a lodger in his house after the revocation or during the suspension of his license,

shall be liable to be punished by a fine not exceeding five rupees for each lodger so found.

7(2) *Every keeper of a lodging-house

who refuses or neglects. without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said

17. Every keeper of a Penalties. lodging-house

in which there shall be, at any time, a number of inmates in excess of the aggregate number of inmates resident in such house at the date of the application for the license thereof and of the number of lodgers mentioned in such license, or a number of lodgers in excess of the number of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be aninmate of his house after the revocation or during the suspension of his license, or

who shall refuse or neglect, without reasonable cause. within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said

Section 17 is in force in this form in Western Bengal.
 The differences in s. 17, as in force in Western Bengal and in Kastern Bengal, respectively, lie in the words printed in italics.
 This portion of section 17 was re-numbered section 17 (1), for Western Bengal, by the Puri Lodging-house (Amendment) Act. 1908 (Ben. Act 3 of 1908), s. 13 (1), in Vol. III of this Code.

Code. This word "lodgers" in s. 17 was substituted in Western Bengal for the word "inmates," by the Puri Lodging-house (Amendment) Act., 1908 (Ben. Act 3 of 1908), s. 13 (3), in Vol. III of this

the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (2), in Vol. III of this Code.

4 The words "and of the number of lodgers mentioned in such license" in s. 14, were repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 18(3), and are omitted.

5 The words "a lodger in" in s 17 were substituted in Western Bengal for the words "an immate of "by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 13 (2), in Vol. III of this Code.

this Code.

This clause in italics in s. 17 (1) was added, for Western Bengal, by the Puri Lodging-house (Ameadment) Act, 1806 (Ben. Act 8 of 1808), s. 18 (4), in Vol. III of this Code.

This portion of s. 17 was re-numbered sub-section (2), for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1806 (Ben. Act 3 of 1908), s. 18 (4) (a), in Vol. III of this Code.

These words in italics in s. 17 (2) were substituted in Western Bengal, for the words "cr who shall refuse or neglect," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 18 (5) (a), in Vol. III of this Code.

Section 17 is in force in this form in Eastern Bengal.

(Secs. 18-21.)

lodging-house when he shall be thereunto required, or

who fails, without reasonable cause, to maintain the register prescribed by section 12A, or to make any entry therein which is prescribed by that section, or

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required.

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

18. Whenever the keeper of any lodging-house shall not Persons in be actually in charge thereof, then the person who shall be charge of lodging. actually in charge thereof shall, as well as the keeper thereof, house be liable to the penalties hereby provided for any infraction of responsible. the provisions of this Act.

19. All offences against this Act shall be heard and deter- Determinmined according to the provisions of Chapter XV of the Code offences. of Criminal Procedure.

20. It shall be lawful for the Magistrate to revoke or Power to suspend any license granted under this Act to the keeper of nuspead any lodging-house who after the grant of such license, shall licenses. have been convicted of any offence against the provisions of this Act, or whose house shall have been certified by the Health Officer to have become unfit or unsafe for occupation as a lodging-house.

It shall be lawful for the Magistrate, when it shall be Power to proved to him that any licensed lodging-house is unfit for the reduce number of accommodation of the number of lodgers mentioned in the lodgers for license, to reduce the number of lodgers mentioned in the ingranted. license thereof to such number as may be able to obtain suitable accommodation in such house, and to enter in the license of such house such diminished number.

lodging-house when he shall be thereunto required, or

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required,

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

25 of 1861

¹ These words and figures in Italics in s. 17 (2) were inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. 8 of 1908), s. 18 (5) (6), in Vol. III of this Code.

² Act 25 of 1881 was repealed and re-enacted by Act 10 of 1872 (the Code of Criminal Procedure). Section 2 of, and Sch. V to, the latter Act directed that the reference in the text should be deemed to be made to "Chapter XVI and the provisions applicable to summons cases" in Act 10 of 1872. Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882. This latter Act has been repealed and re-enacted by the Code of Criminal Procedure, 1888 (5 of 1888), and this reference should now be taken to be made to Chapters XVI, XVII and XX of that Codeses 8. 8 (7) thereof, in General Acts, 1898-1908, Ed. 1909, p. 40.

(Secs. 21A-26.)

¹21A. Where, in cases of urgency, the Magistrate is satisfied that sufficient accommodation cannot be provided in the licensed lodging-houses for all the pilgrims visiting the town, he may grant temporary licenses on such terms as he may think fit, and may charge for any such license such fee as he thinks fit, not exceeding the fee payable for a license under section 8.

Fees and fines recoverab under Act to go towards sanitary improvement.

222. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in force, or in the sanitary improvement of pilgrim balting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal a may from time to time direct.

Applications to be in writ-ing. Depositing dirt, etc., in high ways and

23. All applications to the Magistrate or Health Officer under this Act shall be made in writing.

'24. Whoever

deposits, or permits his servants to deposit, any dust, dirt, dung, ashes or refuse, or filth of any kind, or any animalmatter, or any broken glass or earth-ware or other rubbish, in any public highway, except in such convenient spots, and in such manner, and at such hours as shall be fixed by the Magistrate with the assent of the Health Officer, or

throws or puts, or permits his servants to throw or put, any such substance into any public sewer or drain, or into any drain communicating therewith,

shall be liable to a fine not exceeding ten rupees. **'25.** Whoever

Permitting offensive matter to rvn into drains or upon high ways.

causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain or be thrown or put upon any public highway, or

causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any such highway,

shall be liable to a fine not exceeding ten rupees.

*26. The Magistrate may give notice to the owner or to the occupier of any land to cut and trim any hedges or

1 Section 21A was inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act,
1906 (Ben. Act 3 of 1906), s. 11, in Vol. III of this Code.

This section was substituted for the original section 22 by the Puri Lodging-house (Extension)
Kow the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa
Assam Laws Act. 1912 (7 of 1912), s. 3, and Bch. D, items 1 and 2, in Vol. I of this Code.
Bections 24 to 34 cessed to be in force in every municipality under the Bengal Municipal Act, casacted by the Bengal Municipal Act, casacted by the Bengal Municipal Act, 1864 (Ben. Act 3 of 1876)—see s. 2 of that Act. Ben. Act 5 of 1876 has been repealed and reActs post, pp. 710 and 716.

(Secs. 27-31.)

trees which overhang any public highway so as to obstruct the passage, or to interfere with the free circulation of air.

¹27. Whoever, being the occupier of a house in or near Penalty on

any public highway,

keeps or allows to be kept for more than twenty-four hours, filth. otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or fifth or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or

suffers such receptacle to be in a filthy or noxious state, or

neglects to employ proper means to cleanse the

shall be liable to a fine not exceeding fifty rupees.

¹ 28. Whoever, being the owner or keeper of any cattle, Keeping oattle ne

suffers the stall, pen or place in which they are kept, in or near any public highway, to be in a filthy or noxious

neglects to employ proper means to remove the filth

therefrom,

shall be liable to a fine not exceeding twenty rupees, and to a fine not exceeding three rupees for every day after conviction

for such offence during which the offence is continued.

¹29. The Magistrate may license such necessaries for Power to public accommodation as he from time to time may think necessaries. proper; and whoever shall keep any public necessary without such license, or, having a license for a public necessary, shall suffer the same to be in a filthy or noxious state, or shall neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty rupees, and such license may be withdrawn.

130. Whoever, being the owner or occupier of any clearing drains at private drain, privy or cesspool, shall neglect or refuse, after cosspools. warning from the Health Officer, to keep the same in a proper shall be liable to a fine not exceeding fifty state. rupees.

131. It shall be lawful for the Magistrate, with the assent Power to not of the Health Officer, to appropriate to the domestic use of the fordomestic inhabitants of Puri, or of any other towns to which this Act may be extended, any tank not being a private tank;

and whoever shall bathe in any tank so appropriated to

the domestic use of the inhabitants of the place, or

shall wash or cause to be washed therein any animal, or any wool, cloth or wearing-apparel, or any utensils for cooking or

high ways.

(Secs. 32-35.)

other purposes, or leather or the skin of any animal, or any foul or offensive thing, or

shall put or cause to enter therein any animal, or any gravel, stone, dirt or rubbish, or any dirt, filth or other noxious thing, or

shall cause or suffer to run, drain or be brought thereunto the water of any sink, sewer, drain or any other unwholesome or offensive liquid, or

shall do anything whatsoever whereby the water in any such tank shall be in any degree fouled or corrupted,

shall be liable to a fine not exceeding fifty rupees.

132. Whenever any lands or premises, being private property or within any private enclosure, appear to the Health Officer to be, by reason of thick or noxious vegetation or want of drainage, in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner or occupier of the premises to clear and remove such vegetation, or drain such premises.

133. The Magistrate may from time to time, as he may see flt, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond or other receptacle of water which shall appear to the Health Officer to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be or be not within any private enclosure or be or be not the private property of any person.

or order under the provisions of section 26, 30 or 32 shall be given shall, without sufficient reason, for eight clear days after service upon him of such notice or order, neglect or refuse to comply therewith, or shall not proceed with due diligence in the completion of the works thereby required,

it shall be lawful for the Magistrate to cause to be performed the works in or by such notice required to be performed, and for that purpose to enter into or upon, and to cause workmen and servants to enter into and upon, lands belonging to, or in the occupation of, such person, and to do all things needful or useful to the performance of such works;

and the Magistrate shall make an order under his hand certifying the expense incurred in or about the performance of such works and ordering the payment of such amount by the owner or by the occupier of the lands on which such works may have been performed;

and such amount may be recovered from the person named therein as if it had been a fine for an offence against any of the provisions of this Act.

35. Every notice, warning, order or summons, under any of the preceeding sections of this Act may be served personally

Notice to drain and clear vegeta-

Power to drain tanks. etc.

Power to perform works of which notice is given.

Service of notices.

(Sec. 36.)

upon the person to whom the same is addressed, or may he served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode.

If such notice, warning, order or summons relates to any house, building or land, and the place of abode of the person whom it is intended to affect by such notice, warning, order or summons is unknown, or is not within the town in which such house, building or land is situate, the same shall be deemed to be duly served if put up in some conspicuous part of

the house, building or land to which the same relates. Magis-

136. No action shall be Indemnityclause. brought against the

trate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under

this Act,

until the expiration of 2 two months next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff;

and, unless such notice be proved, the Court shall find

for the defendant;

and every such action shall be commenced within three months next after the accural of the cause of action, and not afterwards;

and, if any person to whom any such notice of action is given shall,

336. No action shall be Indemnitybrought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act.

until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place abode of the intended plaintiff:

and, unless such notice be proved, the Court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards ;

and, if any person to whom any such notice of action is before action given shall, before action

¹ Section 36 is in force in this form in Western Bengal.

The only difference in s. 36, as in force in Western Bengal and in Bastern Bengal, respectively, lies in the words printed in itslice.

⁸ These words in itslics in s. 36 were substituted, in Western Bengal, for the words "one month" by the Pari Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 15, in Vol. III of this

Section 36 is in force in this form in Eastern Bengal.

(Secs. 37-40.)

brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Power to make bylaws 37. It shall be lawful for the Magistrate, with the assent of the Health Officer, and the Civil Surgeon of the district if he be not the Health Officer, to make by-laws, and to repeal, alter and amend the same, subject to the confirmation hereinafter mentioned,

for the management of all matters connected with the conservancy of the town of Puri or of any other town to which this Act may be extended, and

for regulating the encampments, lodging and halting places of pilgrims on their journey to or from Puri or such other town as aforesaid, and

for preventing the spread of epidemics amongst such pilgrims while at Puri or such other town as aforesaid, or on the journey thereto or therefrom, and

to affix fines as penalties for the infringement of such bylaws:

Provided that no by-law shall be repugnant to any law inforce, and that no fine for any one infringement of a by-law shall exceed twenty rupees, and that in case of a continuing infringement no fine shall exceed five rupees for every day after notice from the Magistrate of such infringement.

By-laws to be confirmed by Lieutenant Governor.

- **38.** No by-law or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Lieutenant-Governor of Bengal² and shall have been published for such length of time and in such manner as the Lieutenant-Governor of Bengal² shall order.
- **39.** (Provision for extending Act to Bhubaneshwar, Jajpore, any towns or villages in Orissa used as pilgrims-stages, or any villages in Orissa on the line of road habitually traversed by pilgrims). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

Short itle.

. 40. This Act may be called the Puri Lodging-house Act, 1871.

¹ For a list of by laws made under s. 37 for Bengal as constituted on the 31st March, 1912, see the Bengal Loval Statutory Rules and Orders, 1912, Vol. 1, Part VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assan Laws Act. 1912 (7 or 1912), s. 3, and Sch. 1b, items 1 and 2, in Vol. I of this Code

of [1871.]

(Sch. A.)

SCHEDULE A.1

APPLICATION FOR LICENSE.

I, , the owner of house No. in the town of , hereby request that a license may be granted to me, under the provisions of Act No. 4 of 1871 of the Council of the Lieutenant-Governor of Bengal for making laws and Regulations, for the reception of lodgers in my said house.

1	2	3	1	5	6	7
Name of the atreet in which the house is situated, or other sufficient description of its locality.	Name of on ner applying for license.	Whether sole on uer of nouse or not.	Whether applicant has been previously convicted of any offence against the previdence of this Act, or not.	Number of lodgersapplicant desires to obtain livense for accomolating in his said house.	Number, description and size of a partments in which applicant desires to accom- modate lodgers.	Number of inmates now redding in applicant's said house,
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			; ;			
<u> </u>		 	: ! !	! !		

I, , the above-named, do declare that what is stated in the above application for a license is true to the best of my information and belief.

(Signature)		_
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¹ Schedule A is referred to in s. 4, ante, p. 201. It is in force in Eastern Bengal only, having been repealed in Western Bengal by the Puri Lodginghouse (Amendment) Act, 1906 (Ben. 8 Act of 1908), s. 4(2).

[Sen. Act 4 of 1871.]

(Sch. B.)

SCHEDULE B.1

LICENSE.

A.B., , the owner of house No. , in the town of Puri, is hereby licensed to receive lodgers in his said apartments thereof, subject to the provisions of Act No. 4 of 1871 of the Council of the Licutenant-Governor of all for making Laws and Regulations.

Registered number of this license, upon 1 a fee of rupees has been paid is

(Signature)

Magistrate of District.

stale B is referred to in s. 4, ante, p. 201 It is in force in Eastern only, having been repealed in Western Bengal by the Purihouse (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 1(2), daces in Eastern Bengal to which this Act has been extended under Lodging-house (Extension) Act, 1873 (Ben. Act 2 of 1879), s. 3, the the place concerned is substituted for "Puri" in Sch. B—see Ben. 1879, s. 3, post, p. 383

BENGAL ACT 9 OF 1871

(THE HOWRAH BRIDGE ACT, 1871).

CONTENTS. ----

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Schedule.

BENGAL ACT 9 OF 1871

(THE HOWRAH BRIDGE ACT, 1871)1.

(5th July, 1871.)

An Act for the construction of a bridge across the river Hooghly between Howrah and Calcutta.

Whereas it is expedient that a : bridge should be construct- Preamble. ed across the river Hooghly between Howrah and Calcutta; It is enacted as follows:-

1. The following words and expressions shall have the Interpretmeanings hereby assigned to them, unless where a contrary ation. intention shall appear from the context :-

the word "Commissioners" shall mean the Commissioners "Commis-for making improvements in the port of Calcutta? incorporated sioners." by Act 5 of 1870, passed by the Lieutenant-Governor of Bengal in Council;

"Magistrate" includes a Justice of the Peace for Calcutta "Magisand any person exercising all or any of the powers of a Magis- trate trate.

2. It shall be lawful for the Lieutenant-Governor of Power to Bengal to cause a bridge to be constructed across the river make bridge. Hooghly between Calcutta and Howrah, at such place at or near Armenian Ghat as he may select, and also such ways and approaches to such bridge as he shall deem necessary, and to cause to be maintained such bridge and approaches.

3. The said Lieutenant-Governor shall form a scale of Power to tolls, fees and charges for the use of the said bridge, and may charge tolls. from time to time vary such scale; and such tolls, fees and charges shall be leviable in respect of the several matters mentioned in the Schedule hereto annexed:

1 LEGISLATIVE PAPERS.—For Statement of Objects and Rossons, see Calcutta Gazette, 1974, p. 411; and for Proceedings in Council, see third, Supplement, 1871, pp. 91, 106, 228, 255, 286 and 298.

LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the ways and approaches thereto (see a. 2), and the Howrah Railway Station (see sa. 4 and 9).

AMENDING ACTS.—Bon. Act 3 of 1880 is to be deemed to have always been a part of this Act—see Ben. Act 8 of 1880 a. 1, 1995, p. 459.

Ben. Act 8 of 1885 is to be read with, and taken as part of, this Act—see Ben. Act 8 of 1885, a. 1, 1995, p. 951.

Ben. Act 8 of 1888 is to be read with, and taken as part or, this Act—see Den. Act of the control of the post, p. 901.

This body is now styled the Commissioners for the Port of Calcutta "—see the Calcutta Post, p. 1014.

Ben. Act 3 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 8 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 8 of 1890), and this reference should now be constriped as a reference to the latter Act—see a. 3 of 1890, and this reference should now be constriped as a reference to the latter Act—see a. 3 of 1890, and this reference should now be constriped as a reference to the latter Act—see a. 3 of 1890, and this I latter Act—see a. 3 of 1890, and this I latter Act—see and See and

(Secs. 4-6.)

¹ Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said Schedule, and that it shall be lawful for the Lieutenant-Governor ¹ from time to time to exempt all or any passengers, animals, vehicles and goods using or conveyed on the said bridge from payment of the tolls, fees and charges prescribed in the said Schedule.

Power to levy

of person to collect tolk

and take charge.

Lieutenant

make by-

Governor may

4. Towards meeting the charges incurred in the construction and maintenance of the said bridge and approaches, the Lieutenant-Governor of Bengal² may levy or cause to be levied, from the date of the opening of the said bridge for traffic, the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from the station at Howrah, namely:—

On every maund of goods 2 pie. On every passenger 3 pie.

Provided that the said Lieutenant-Governor² may at any time lower the said fees, and may also exempt any goods or any passengers from payment of the said fees:

any passengers from payment of the said fees:

^a Provided also that the said Lieutenant-Governor and any from time to time, re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under this section.

5. The said Lieutenant-Governor may appoint such person or persons as he shall think fit to collect tolls, fees and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon.

6. It shall be lawful for the Lieutenant-Governor of Bengal² from time to time to make by-laws⁴

for the guidance of persons employed by him under this Act:

for the safe and convenient use of the bridge to be constructed under the provisions of this Act, and approaches thereto;

for the passage of ships, boats and vessels through the said bridge:

for the mode of payment and levy of the tolls, fees and charges leviable under this Act:

1 This provise to s. 3 was substituted for the original provise by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act 3 of 1883), s. 3, past, p. 901. The original provise ran thus:—
"Trevised always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenaut-Governor to exempt from system of tolls all or any passengers or goods conveyed on the East Indian Esilway, or all or any carrages or persone using the said bridge for the purpose of going to or returning from the station of the said railway at Howrah."

2 Now the Governor in Council of Fort/William in Benezi-See the Bengal, Bihar and Origas and

we see may ran way at Howrah."

2 Sow he Governor in Council of Fort-William in Bengel less the Bengal, Bihar and Orisan and Assam Laws Ack, 1912 (7 of 1912), s. 3, and Soh, 3h, item 1, in Yol, I of this Code.

2 This proviso was added so s. 4 by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act of 1881), a Laws and Laws and Crises and Orders, 1870; it is a hy-way made nucler section 6, see the Bengal Local Statutory Rules and Orders, 1948, Yol, I, Ft. YI

1671.] *

(Secs. 7-11.)

or otherwise for carrying out the purposes of this Act; and from time to time to vary, alter or revoke any such

by-law so made by him.

7. No penalty for any one infringement of a by-law shall Penalty for exceed one hundred rupees, nor in case of a continuing infringe- of by laws ment shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by or on behalf of the said Lieutenant-Governor to the person guilty of such infringement.

8. The Lieutenant-Governor of Bengal shall cause the By-laws and said by-laws, and the tables of tolls, fees and charges leviable, to be to be printed in the English. Hindustani, Hindi and Bengali exhibited. languages and characters, and to be hung up and kept hung

up at the approaches to the said bridge.

9. It shall be lawful for the East Indian Railway Company Power to and the said Lieutenant-Governor to make such arrangement through Base or agreement for the collection of tolls, fees and charges by the Indian said Company in respect of persons, animals, carriages and Company goods crossing the said bridge to or from the station of the said Company at Howrah, or conveyed into or from the said station. as to the said Company and the said Lieutenant-Governor 1 shall seem fit, and upon such agreement being made the said Company shall levy the said tolls, fees and charges.

10. It shall be lawful for the said Lieutenant-Governor to Power to advance for the construction of the said bridge and approaches funds in thereto such sums out of the public funds as from time to time construction may be in that behalf sanctioned by the Governor General of bridge.

of India in Council.

Interest at the rate of four and-a-half per centum per annum shall be charged on such sums respectively on the thirty-first day of March and on the thirtieth day of September in each year from the respective dates upon which such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section.

11. The said Lieutenant-Governor shall cause such accounts Accounts as he shall think fit to be kept of all expenditure in or about the construction or maintenance of the said bridge and approaches, and the collection of such tolls, fees or charges, or otherwise in relation to the said bridge, and the payment of interest which may from time to time be payable to the Secretary of State for India in Council, and also of the income derived from such tolls, fees and charges, and shall from time to time apply the balance which shall remain of such income, after defraying thereout the current expenses incurred in relation to such bridge, and interest as aforesaid,

¹ Now the Governor in Council of Fort William in Bengal— see the Bengalr-Bihar and Ogista and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, item 1, in Vol. I of this Cods:

(Secs. 12-15.)

in repaying to the Secretary of State for India in Council all sums which shall have been advanced from the public funds for the construction of the said bridge and approaches.

12. It shall be lawful for the said Lieutenant-Governor of Bengal 1 at any time after the commencement of this Act, if the

Commission

ers to have powers and duties of

Lieutenant-

think fit, with the assent of the Commissioners at a meeting, by order' published in the Calcutta Gazette, to appoint the

said Commissioners to carry out the purposes of this Act. 13. When and so soon as the Commissioners shall be so appointed, the Commissioners, subject however to the provisions hereinafter in that behalf contained, shall and may have and exercise 3 all the powers and authorities, and shall perform all the duties, in and by sections 5 to 8 (both inclusive) of this Act or any of them, or in and by section 10, conferred or imposed on the said Lieutenant-Governor. 1

Property-to vest in Com-missioners.

And all property procured for the construction of the said bridge and the approaches thereof, and the said bridge and approaches, and the tolls, fees and charges thereof, and the right to enforce all contracts respecting the same, shall become vested in the Commissioners.

Property of Commissioners to be applied for

14. All property vested in, or acquired by, the Commissioners under or by virtue of this Act, and all moneys payable to them under or by virtue of this Act, shall be held in trust for the payment of all sums which from time to time shall be payable to the Secretary of State for India in Council for moneys advanced or applied, or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the construction of a bridge across the river Hooghly between Howrah and Calcutta, or otherwise under the provisions of this Act, and subject thereto upon trust for the purposes of this Act and not otherwise.

And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any moneys payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and moneys held by them in trust as aforesaid.

15. The aggregate sum which may under the provisions of section 10 of this Act become payable from the Commissioners to the said Secretary of State shall be by them repaid w him in thirty equal annual instalments, the first of such instalments to be paid on the first day of April which shall be next after the completion of twelve calendar months from the date of the opening of the said bridge for traffic, and the other instalments to be paid respectively on the first day of April

¹ Now the Governor in Council of Fort William in Bengal—se the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Yol. Lof this Code.

2 For an order made under section 12, see the Bengal Local Statutory Rules and Orders, 1912, Yol. 1, Pt. YI. * For a list of by laws made by the Commissioners, see the Bangai Lecal Statutory Rules and Orders, 1915, Vol. L. Pt. VI.

of 1871.]

(Secs. 16-19.)

in every year, computing from the day fixed for one payment of the first of such instalments.

16. Interest at the rate of four and-a-half per centum per Payment of interest. annum shall be paid by the Commissioners to the said Secretary of State upon the aggregate amount which for the time being may be payable to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest to be calculated from the date of the opening of the said bridge for traffic and to be made. on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after the opening of the said bridge for traffic.

17. Notwithstanding the provisions of section 14, it shall Power to be lawful for the Commissioners, if they think fit, out of any due date. moneys which may come to their hands under the provisions of this Act, to repay to the said Secretary of State in Council any sum or part thereof which for the time being may remain payable to him under the provisions of this Act for principal, although the time fixed by the said section for the repayment of the same shall not have arrived:

Provided always that no such repayment shall be made of any sum less than five thousand rupees, nor of any sum not being a multiple of five thousand rupees, and from and after any such repayment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

18. Whenever the half-yearly accounts to be laid before Application the Lieutenant-Governor of Bengal under the provisions of income. this Act shall show a surplus of income over expenditure, such surplus or so much thereof as the said Commissioners shall think fit may be invested by the Commissioners in the purchase in their corporate name of Government securities, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor,1 in or towards any of the purposes of this Act.

The said Government securities shall be held by the said Commissioners in trust for the purposes of this Act and nototherwise.

19. The salaried Chairman or salaried Vice-Chairman of Betimate of the Commissioners shall at a meeting, to be held within two income and the Commissioners shall have been appointed, be usually to months after the Commissioners shall have been appointed, be usually to commissioners and the expenditure to th lay before the Commissioners a separate estimate of the ex- Commis penditure and income under this Act of the Commissioners for the period which shall be to come from the date of their appointment up to the first day of April then next ensuing:

(Secs. 20-23.)

and shall also at a meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutmant-Governor of Bengal shall, by an order published in the

Calcutta Gazette, direct :

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

20. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate, and pass such estimate so modified or altered.

21. Every such estimate, when passed by the Commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal, and it shall be lawful for such Lieutenant-Governor either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to re-consider such estimate in reference to such remarks, and to modify or alter the same, and to re-submit such estimates to the said Lieutenant-Governor, and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.

22. After the repayment of all sums advanced under the provisions of section 10 of this Act, whenever an estimate is submitted or re-submitted pursuant to the next preceding section, if the Government securities then held by the Commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor¹ to form a sufficient reserve fund for the purposes of this Act, then the said Lieutenant-Governor¹ shall so regulate the scale of fees, tolls and charges in relation to the said bridge as that the probable income derivable therefrom shall be no more than sufficient to defray the expenditure set forth in the said estimate.

23. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor, to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 19, 20 and 21 are directed to be had with respect to the estimate therein mentioned.

Batimate to be

approved by Lieutenant-Governor.

Tolls to be reduced on accumulation of sufficient



² Now the Governor in Conneil of Fort William in Bengal—see the Bengal, Bihar and Grissa and Asgam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D. item 1, in Vol. I of this Code.

4 Secs. 24-303.

24. No by-law or alteration or revocation of a by-law Approvator made by the Commissioners shall have effect until the same by-laws: shall have been approved by the Lieutenant-Governor of Bengal by an order published in the Calcutta Gazette, and no by-law made by the Commissioners shall be approved by the said Lieutenant-Governor until it shall have been put lished for three weeks successively in the Calcutta Gazette; and, when such by law shall have been so approved, all Courts of Law shall take judicial notice thereof.

25. It shall be lawful for the Lieutenant-Governor of department to Governor to Governor Bengal. by an order published in the Calcutta Gazette, to revoke and revoke, annul and make void any by-law made by the Com- annul by

missioners.

26. When and so soon as the Commissioners shall be so Contain appointed as aforesaid, all the provisions contained in sections provisions of 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 52, 5 of 1870 53, 76, 79, 80, 88, 89, 90 and 91 of the said Act 5 of 1870 passed extended. by the Lieutenant-Governor of Bengal in Council, shall apply to this Act as if the said sections were re-enacted herein; and this Act and the said sections of the said Act shall, for the purpose of the construction of this Act, be read and construed together.

27. No suit or other proceeding shall be commenced or Limitation of prosecuted against any person for anything done or professing or purporting to be done in pursuance of this Act without giving to such person a month's previous notice of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months

from the accrual of the cause of suit or other proceeding.

28. No person shall be entitled to any compensation for No compensation for No compensation for No. any loss or injury which he may sustain by reason of any obstruction to the navigation of the said river which may be caused by the said bridge, or by anything done in the construction thereof.

29. Any person who shall wilfully evade, or attempt to remain on evade, payment of any toll, fee or charge payable under this evasion toll, Act, shall be liable to a fine which may extend to fifty rupees, or to imprisonment, simple or rigorous, which may extend to fourteen days, or to both.

30. Any person committing any offence against the Power to provisions of the last section may be arrested by any officer to be by the Lieutenant-Governor, the Commissioners or the said Railway Company thereunto appointed, and by such officer or any person by him thereunto authorized, or by any

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act. 1912 (7 of 1912), s. 8, and Soh. D, item 1, in Vol. I of this Code.

2 For a list of orders made under this section, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

2 Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1990 (Ben. Act 3 of 1999), and these references should now be construed as references to the corresponding portions of the latter Act—see s. 2 (4) thereof. post. p. 1014

[Bon, Aut 1

(Secs. 31-33.—Schedule.)

officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such office shall have been committed, or to the nearest police-station within the said jurisdiction.

Summary jurisdiction. 31. Whenever such person shall be brought before a Magistrate, such Magistrate may forthwith hear and determine the charge of such offence.

Offender to be forth with brought to trial.

32. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Short title.

33. This Act may be called the Howrah Bridge Act, 1871.

SCHEDULE.

(Referred to in section 3.)

MAXIMUM AMOUNT OF TOLLS, FEES AND CHARGES.

	Rs	. A.	P.
For every foot-passenger with or without load	0	0	3
For every horse	Ŏ	ï	Ŭ
For every pony, mule or ass	Õ	-	
For every buffalo	ŏ	ĭ	
For every cow, ox or bull	ŭ	ō	6
For every calf, sheep, goat or pig	ŏ		
Or per score	ő	8	Ü
For every two-wheeled vehicle without	U	J	v
springs	0	1	0
For every two-wheeled vehicle carrying	-	•	·
goods or animals or passengers	0	3	ø
For every two-wheeled vehicle with springs	ŏ	2	Ŭ
For every four-wheeled vehicle without	·	-	•
springs	0	2	a
springs	·	~	U
goods of allimals of Dassengers	0	4	0
For every four-wheeled vehicle with springs	٧,	•	U
other than a second or third class hackney-			
carriage	0	4	0
For every maunu of goods conveyed over the	v	*	v
bridge on a tramway or railway	0	θ	4
FOR ATTOMY AMONTY tamoli main	U	v	*
railway	0	i	Λ
For every locomotive steam-engine	Ÿ	2	Ď
for a contract to protein outline	1	ŋ	U

(Schedule.) SCHEDULE—concld.

	Rs	P.	Р.	
Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.				
For every second class hackney-carriage Ditto ditto carrying goods or passen-	()	l	0	
gers	()	3	0	
	0	1	0	
gers	0	2	()	
For every <i>palanguin</i> and bearers	()	2	0	

BENGAL ACT 1 OF 1873

(THE BENGAL SALT ACT, 1873).1

(12th March, 1873,)

An Act to amend the Sait Act, 1864.

Whereas by the Salt Act, 1864, being Bengal Act 7 of 1864, Preamble. section 3, it is enacted that the word "Magistrate" means any person exercising the full powers of a Magistrate under the Code of Criminal Procedure, Act 25 of 1861; and whereas the said Act 25 of 1861 has been repealed by the Code of Criminal Procedure, Act 10 of 1872,3 by which later enactment new rules have been enacted, assigning the several powers of Magistrate of the first, second and third classes;

And whereas reference is made in the Salt Act, 1864, 2 to Act 13 of 1856 (for regulating the Police of the Town of Calcutta, etc.) and Act 48 of 1860 (to amend Act 13 of 1866), which enactments have been repealed, so far as they relate to the town of Calcutta, by the Calcutta Police Act, 1866, being Bengal Act 4 of 1866;

It is hereby enacted as follows:-

1. All the powers which, under the provisions of the Salt Powers of Act, 1864, may be exercised by a Magistrate, may be exercised under Sait by a Magistrate of the first or second class, subject to the Act. 1864. provisions of section 20 of the Code of Criminal Procedure.4

2. All offences punishable under the provisions of the Salt Trial of Act, 1864 may be inquired into and tried by a Magistrate of sald Act. the first or second class.

3. All references made to the said Act 13 of 1856 and the References in said Act to said Act 48 of 1860, in the Salt Act, 1864, shall be taken to be Calcutta made to the Calcutta Police Act, 1866.

Ben. Act 4 of 1866.

Ben. Act 7 of 1864.

10 of 1872.

1 SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—zee Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGIBLATIVE PAPER.—For Proceedings in Council, see Calcutta Gazette, Supplement, 1878,

LEGISLATIVE PAPERS.—For Proceedings in Council, see Calcutta Gazette, Supplement, 1878, 19. 68, 114, 196 and 289.

LOCAL EXTENT.—Since this Act merely amends the Salt Act, 1864 (Ben. Act 7 of 1864), it must se taken to have been passed, like the latter Act, for the whole of the former Province of Bengal. The application of the Act is barred in the Chittagong Hill-tracts hegulation, 1800 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

Printed caste, p. 29.

Act 10 of 1872 was repealed and re-enacted by the Code of Criminal Procedure, 1882 (10 of 1882), which again has been repealed and re-enacted by the Code of Criminal Procedure, 1888 (5 of 1898), printed in General Acts, 1888-1903, Ed. 1909, p. 38.

4 Act 10 of 1872 was repealed and re-enacted by the Code of Criminal Procedure, 1898 (19 of 1892). The latter Act has again been repealed and re-enacted by the Code of Criminal Procedure, 1898 (19 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (5 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (5 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (5 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (5 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (5 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (6 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (6 of 1898), and the reference in the text should now be taken to be made to the encept of the code of Criminal Procedure, 1898 (6 of 1898), and the reference of the code of Criminal Procedure, 1898 (6 of 1898), and the reference of the c o. 40. Prin

BENGAL ACT 4 OF 1873

THE BENGAL BIRTHS AND DEATHS REGISTRATION ACT, 1873).

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- Magistrate may divide area into districts, and may appoint registrars.
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BENGAL ACT 4 OF 1873

(THE BENGAL BIRTHS AND DEATHS REGISTRATION ACT, 1873).

(2nd July, 1373.)

An Act for Registering Births and Deaths.

Whereas it is expedient to provide the means for a com- Presemble. plete register of births and deaths; It is hereby enacted as follows :-

1. The Lieutenant-Governor may at any time, by a noti-fication published in the Calcutta Gazette, direct that all tration of births and deaths, or all births, or all deaths, occurring births and within the limits of any area after a certain date to be named and defice in such notification shall be registered, and for that purpose may define the limits of such area.

From and after such date this Act shall apply to the whole

of the area so defined.

2. The Magistrate of the district may, for the purpose of Magistrate such registration, divide any such area into such and so many sivile districts as he may think fit, and may appoint one or more districts and may appoint one or more districts, and may appoint one or more districts. persons to be registrars of births or of deaths, or of births and may appoint registrars. deaths, within such district, and may at any time for sufficient reason dismiss any such registrar, and may fill up any vacancy in the office of registrar.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (2 of 1908), Sch. 1—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—gide, 10 of 1914, Sch. II.

SOURT FIFE.—I IBL Short title was given by the Repealing and Amending Act, 1808 (2 of 1808), Seb. 1—rec Vol. 1 of this Code. That Act is now known as the Amending Act, 1808—yield let 10 of 1914, Sch. II.
LEUSHATUE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1872, Pt. IV.
570; and for Proceedings in Council, see ibid, Supplement, 1873, pp. 538, 562, and 681.
LEUSHATUE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1872, Pt. IV.
570; and for Proceedings in Council, see ibid, Supplement, 1873, pp. 538, 562, and 681.
LOCAL EXTRANT—Since this Act contains no local extent clause, it must be taken to have been pecially notified under v. 1.

The application of the Act is barred in the Chittageng Hill-tracts by the Chittageng Hill-tracts legulation, 1900 (1 of 1900), s. 1 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—As to the Registration of births and deaths, under the present Act, in revincial Municipalities, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), Pt. XI, post 9, 846.
As to the registration of births and deaths in the Calcutta Municipality, rec the Calcutta Municipal Act, 1889, Ch. XXXVIII, in Vol. III of this Code.

Sen. Act 3 of 1885), see ss. 72 and 114 of that Act, post, pp. 988 and 985.

Ben. Act 3 of 1885), see ss. 72 and 114 of that Act, post, pp. 988 and 985.

For power to make rules as to the registration of births and deaths in Cantonments, see the Santoments Act, 1810 (15 of 1910), s. 24 (280).

As to the voluntary registration of births and deaths, see the Births, Deaths and Marriages Registration Act, 1836 (6 of 1888) in General Acts, 1879-86, Ed. 1909, p. 566.

As to the transmission to the Registran-General of Births and Deaths in England of registers of, adoutents showing births and deaths of officers and soldiers and their families abroad, see the legistration of Births, Deaths and Marriages (Army) Act, 1879 (42 4 39 vict, c. 8), in the Act to the duties of Registrars of Births in connection with the vaccination of children, see

(Secs. 3-7.)

Magistrate to publish list of registrars. The Magistrate shall cause to be published a list containing the name and place of office of every registrar in the area, and specifying the hours of the day during which such registrar shall attend at his office for the purpose of registration.

Every registrar to have an office within his district. 3. Every registrar shall have an office within the district of which he is appointed registrar, and shall cause his name, with the addition of registrar of births (or of deaths, or of births and deaths according to his appointment) for the district for which he is so appointed, and notice of the hours during which he will attend for the purpose of registration, to be affixed in some conspicuous place on or near the outer door of his office.

Commissioners to have registerbooks prepared and numbered 4. The Magistrate shall cause to be prepared a sufficient number of register-books for making entries of all births or deaths or both, according to such forms as the Lieutenant-Governor¹ may from time to time sanction; and the pages of such books shall be numbered progressively from the beginning to the end; and every place of entry shall be also numbered progressively from the beginning to the end of the book, and every entry shall be divided from the following entry by a line.

Registrar to inform himself of, and register, births and deaths 5. Every registrar shall inform himself carefully of every birth, or of every death, or of both, according to his appointment, which shall happen in his district, and shall register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms mentioned in the last preceding section, touching every such birth or every such death, as the case may be which shall not have been already registered.

Chaukidar to obtain particulars and to report to registrar. 6. Every chankidar or other village-watchman in any area to which this Act shall apply, or, where there is no chankidar or other village-watchman, such person as the Magistrate may appoint, shall be required to report every birth or death occurring within his beat to such registrar and at such periods as the Magistrate may direct.

Magistrate may direct.

He shall obtain in writing, if possible, and if it is impossible for him to obtain in writing he shall obtain verbally, from any person who is bound to give information of the birth or death all particulars which are required to be known and registered, and he shall report such particulars to the registrar.

Penalty for peglect. Any chaukidar or other village-watchman or other person so appointed who wilfully or negligently refuses or omits to produce such writing, if any, or to report such birth or death, shall be punishable at the discretion of the Magistrate with fine which may extend to two rupees.

Persons bound to give information of birth. 7. The father or mother of every child born within such area, or in case of the death, illness, absence or inability of the father and mother, the midwife assisting at the birth of such

^{. *}Now the Governor in Council of Fort William to Smarel—to the Sandal, Biber, and Ortes and Assum Laws Act, 1919 (7 of 1813), s. 6, and Sch., D. Sagas Land S. in Vol. 1 of this Code.

(Secs. 840.)

child, shall, within eight days next afer the day of every such birth, give information, either personally or in writing, to the registrar of the district, or by means of the chaukidar or other village-watchman or other person as provided in the last preceding section, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Any person who refuses or neglects to give any information reglect. which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may

extend to five rupees:

Provided that not more than one person shall be punishable at the discretion of the Magistrate for such refusal or neglect

to give information.

8. The nearest male relative of the deceased present at the death, or in attendance during the last illness of any person dying, within such area, or, in the absence of any such relative, the occupier of the house, or, if the occupier be the person who shall have died, some male inmate of the house in which such death shall have happened, shall, within eight days next after the day of such death, give information either personally or in writing to the registrar of the district,1 or by means of the chaukidar or other village-watchman or other person as provided in section 6, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person:

Provided that no person shall be bound to give the name

of any female relative.

Any person who refuses or neglects to give any information, which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees:

Provided that not more than one person shall be punish-

able for such refusal or neglect to give information.

9. Any registrar who refuses or neglects to register Penalty for any birth or death occurring within his district, which he is refusing to bound to register, within a reasonable time after he shall have register been duly informed thereof, or demands or accepts any fee or reward or other gratification as a consideration for making such registry, shall be punishable at the discretion of the Magistrate with fine which may extend to fifty rupees for each such refusal or neglect.

10. Whoever wilfully makes or causes to be made, for the Panalty wilfully purpose of being inserted in any register of births or deaths, any false statement touching any of the particulars required information.

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Or any sub-registrar appointed for a burning-gadd or burial ground—see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), s. 848, pest, p. 845.

As to duty of medical officer in charge of hospital to give notice of death, see \$\tilde{\phi}\$, s. 849, post, p. 848.

Or any sub-registers appointed for a burning-shift or burial ground—see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), a. 385, post, p. 845.

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(Secs. 11, 12.)

to be known and registered, shall be punishable at the discretion of the Magistrate with a fine not exceeding fifty rupees.

11. In any place to which the District Municipal Improve- Ben. Act 8 ment Act1 shall have been extended, the Municipal Commissioners may, if at a meeting specially convened for considering such question they shall so determine arrange for keeping a register of all births or of all deaths or of all births and deaths, occurring within the municipality.

On and after a date to be fixed at such meeting, the Commissioners shall in such case be authorized to provide out of the municipal fund for the employment of a sufficient number of registrars, and for the expenditure necessary for the maintenance of such registers, and shall exercise all the powers of a Magistrate under this Act; and all the provisions of this Act shall be deemed to apply to such place.

12. The Magistrate of a district may depute any subordinate Magistrate to exercise the powers and to perform the duties vested in the Magistrate by this Act within such district or any part thereof.

Magistrate may depute subordinate Magistrate to discharge his functions.

Municipali under Ben

¹ Ben. Act 3 of 1864 was repealed by Ben. Act 5 of 1876, which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), and this reference should now be taken to be made to the latter Act—see s. 2 thereof, post, p. 710.

⁸ Now District Magnitate—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 3 (2) in General Acts, 1898-1908, Ed. 1909, p. 40.

BENGAL ACT 6 OF 1873

(THE BENGAL EMBANKMENT ACT, 1873).1

[Sections 12, 13, 21 (provise) and 26 to 29, and Schedules B to E.]

(24th December, 1873.)

12. Whenever any land, or earth from any land, the proper Power to take ty of any person, is required for the purposes of any works land, commenced in pursuance of the provisions of [the last preceding section], or for the purposes of [section 18] in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in [section 25]4 would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule Bannexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

13. The Collector shall ascertain and record the nature and compensation for standing estimated value of the crops and trees (if any) standing on such crops are trees, land, and shall offer adequate compensation to the person

interested.

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29.

21 (proviso). Provided always that, in case the Collector be of opinion that the delay required by [such proceedings] is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case

as defined in the Bengal Irrigation Act, 1870 (Ben. Act of 1801)—For post, p. 816.

This reference is now to be read as a reference to section 25 of the Bengal Embankment Act, 1822 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. II, post, pp. 685 and 662.

This reference is now to be read as a reference to section 30 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see ibid.

This reference is now to be read as a reference to section 37 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see ibid.

"This reference to "such proceedings" is now to be read as a reference to section 19 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. II post, pp. 686 and 662.

¹ LBGISLATIVE PAPERS -For Statement of Objects and Reasons, see Calcutta Gazette, 1871, p. 78; for Report of Select Committee, see ibid, 1878, Pt. IV. p. 257; and for Proceedings in Council, see ibid, 1870, Supplement, pp. 290, 229 and 286; ibid, 1871, Supplement, pp. 25, 265, 555 and 797; ibid, 1878, Supplement, pp. 68, 113, 197, 248, 375, 382, 652, 1286, 1800 and 1888.

LOCAL EXPERT.—This Act was declared by section 1 to extend to the whole of the former Province of Bengal except Orisas and the Sundarhans.

The whole of the Act, except sections 12, 13, 21 (proviso) and 25 to 29 and Schedules B to E, has aince been repealed by the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), post, p. 685.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), a. 4 (2), printed in Vol. 1 of this Code.

The sections here printed are in force in the whole of the present Presidency of Fort William in Bengal, scoopt the Sunderbans and the Chittagong Hill-tracts.

RESTRICTION ON APPLICATION.—Nothing in this Act applies to any canal or flood-embankment as defined in the Bengal Irrigation Act, 1876 (Ben. Act 3 of 1876)—see Ben. Act 3 of 1878, s. 4, post, p. 615.

(Secs. 26-29.—Schedule B.)

the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

26. Whenever any land shall have been taken or used under the provisions of [Part III] the Collector shall cause a proclamation 2 to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him.

Thereupon the land shall vest absolutely in the Government free from all incumbrances, subject, however, to the claims for compensation to be ascertained in manner as in [this Part]. is provided.

Contents of

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than 15 days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain

28. The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

Proceedings after notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or any other law' for the time being in force for the acquisition of land for public purposes.

SCHEDULE B.

(Referred to in section 12.)

Notice is hereby given that, under the provisions of section 11 of the Bengal Embankment Act, 1873, the land hereunder ----

This reference is now to be read as a reference to Part III of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. II, post, pp. 685 and 662.

*As to the mode of publishing proclamations mentioned in s. 28, see s. 2, 80 and 81 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), post, pp. 635, 638 and 659.

*This reference is now to be read as a reference to Part V of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. III, post, pp. 685 and 665.

*A See now the Land Acquisition Act, 1884 (1 of 1894—printed in General Acts, 1887-97, Ed. 1909, p. 868), which repeals and re-enacts Act 10 of 1870.

*Bection II of this Act was repealed by the Bengal Embankment Act, 1962 (Ben. Act 3 of 1863), s. 3, printed post, p. 685.

. of 1878.]

(Schedule C.)

specified has been taken up, and notice thereof has been given to the Collector of

1	2	8	
Pargana in which land is situated.	Name of village in which land is situated.	Approximate boundaries and area of land.	
-	!		

The

day of

A. B.,

Collector of

SCHEDULE C.

(Referred to in section 26.)

All persons interested are required to take notice that under the provisions of section 11 of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of (here state particulars of the land taken), and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at and to state the nature of their respective interests in such land and the amount and particulars of their claims to compensation for such interests.

The

day of

A. B.,

Collector of

³Section 11 of this Act was repealed by the Bangal Embankment Act, 1882 (Ben. Act \$ of 1882), a. 3, printed port, p. 635.

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SCHEDULE D.

(Referred to in sections 34, 35 and 40.)1

No. 1.

Right Embankment on the Shilái River from Ishnagar to Kola.

(Excluded by Notification No. 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt. I. p. 1072.)

No. 2.

Right Embankment on the Shildi River from Chota Rúprám to Narwyá.

(Excluded by Notification No. 338, dated the 19th December 1893, published in Calcutta Gazette. 1893, Pt. I. p. 1072.)

No. 3.

Right Embankment on the Shilai River from Srirámmer to Gánchia.

This is a continuous line of embankment on the right bank of the Shilai river, 7 miles 2,686 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Srirámpur of pargana Chandrakona, and terminates at a masonry-pillar in the village of Ganchia in the said pargana.

No. 4.

Left Embankment of the Shildi River from Karshi to Lalukadi.

(Excluded by Notification No. 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt. I, p. 1072.)

¹ Sections 34, 35 and 40 of this Act were repealed by the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), a 2, post, p. 635.

Section 4 (post, p. 637) of the Bengal Embankment Act, 1882, declares that the embankments mentioned in this Schedule shall be held on behalf of the Government.

Section 48 (post, p. 647) of the Bengal Embankment Act, 1882, authorises the inclusion of other embankments or water-courses in the Schedule said the exclusion of embankments or water-courses which have been issued under these powers up to the 8th July, 1914, for Western Bengal, and upon the 4th May, 1907, for Eastern Bengal.

Section 38 (post, 637) of the Bengal Embankment Act, 1882, declares that sections 47, ct. see, a Part VI of that Act shall not apply to any embankments for the time being included in this Schedule, except in certain cases, and also declares that all sums payable in respect of works or ripsing exceptated in or in relation to such embankments shall, with certain exceptions, be paid by the Government.

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No. 5.

Left Embankment of the Shildi River from Baghpota to Radhachak.

This is a continuous line of embankment on the left bank of the Shilái river, 20 miles 680 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bághpotá of pargana Chandkrakoná, and terminates at a masonry-pillar in the village of Rádháchák of pargana Baradá.

No. 6.

Left Embankment of the Dwarkeshwar and Sankra Rivers.

This is a continuous line of embankment on the left bank of the Dwarkeshwar and Sankra rivers, 5 miles 250 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Ramnagar of pargana Bayda, and teminates at a masonry-pillar in the village of Gasna of pargana Jahanabad.

No. 7.

Right Embankment of the Dwarkeshwar and Jhumi Rivers.

This is a continuous line of embankment on the right bank of the Dwarkeshwar and Jhumi rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digdi of pargana Bayda, and terminates at a masonry-pillar in the village of Soi of pargana Barada.

No. 8.

Left Embankment on the Bakshi Kha..

This is a continuous line of embankment on the left bank of the Bakshi *khal*, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshi of pargana Khariji Mandalghat, and near

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the junction of the Rupnarain river and Bakshi *khal*, and terminates at a masonry-pillar in the village of Gaighati in the said *pargana* where the Gaighati *khal* leaves the Damodar.

No. 9.

Right Embankment on the Rupnarain River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Machnan masonry-sluice on the right bank of the Durbachati khal, in the village of Machnan of pargana Mandalghat, and terminates at a masonry-pillar at the zero mile-post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal toll-house, in the village of Kamal-pur of pargana Mahishadal.

(The following Notification has been published with respect to this embankment :—

Notification No. 224, dated the 11th November, 1902, published in the Calcutta Gazette, 1902, Pt. I, p. 1488.

In modification of the description of the right embankment on the Rupnarain river, being No. 9 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information:—

No. 9.

Right Embankment on the Rupnarian River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Jassur masonry-sluice on the right bank of the Durbachati khal, in the village of Salika of pargana Mandalghât, and terminates at a masonry-pillar on the bunk of the Banka khal. This masonry-pillar is 240 feet north of the Pile Bridge over the Banka khal, in the village of Kamalpur in pargana Mahishadal.

Note—26 miles 894 feet are maintained by the Public Works Department, and the remaining 3 miles 1,479 feet, being portion of the embankment through Tamluk, are in charge of the Municipality and the District Board.)

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No. 10.

Right Embankment on the Payratungi Khal.

This is a continuous line of embankment on the right bank of the Payratungi khal, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Payratungi of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar distant 187 feet west of a temple on the Tamluk Road, in the village of Barapadubasan in the said parg. ma.

No. 11.

Left Embankment on the Payralungi Khal.

This is a continuous line of embankment on the left bank of the Påyråtungi khal, 4,370 feet, more or less, in length. It commences at a masonry-pillar in the ground in the village of Påyråtungi of pargani Tamluk, and on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Bårapadubasan in the said pargana.

No. 12.

Right Embankment on the Gångákháli Khal.

This is a continuous line of embankment on the right bank of the Gángákháli khal, 3 miles 3,430 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudhápur of pirgana Tamluk, on the Rupnarian embankment, right bank, and terminates at a masonry pillar distant 675 feet east of the Raghunáthpur masonry-sluice in the village of Sayadpur in the said pargana.

No. 13.

Left Embankment on the Gangakhali Khal.

This is a continuous line of embankment on the left bank of the Gángákháli khal, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishda of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar, distant 170 feet north-east of the Raghunáthpur masonry-sluice on the right bank of the Gángákháli khal, in the village of Raghunáthpur in the said pargana.

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No. 14.

Right Embankment on the Shuadighi Khal.

This is a continuous line of embankment on the right bank of the Shuadighi khal, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuadighi of pargana Tamluk, on the Rupnarain imbankment, right bank, and terminates at a masonry-pillar n the village of Jashomantapur in the said pargana.

No. 15.

Left Embankment on the Shuadighi Khal.

This is a continuous line of embankment on the left bank of the Shuadighi khul, 2 miles 1,690 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuadighi of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Hogla in the said pargana.

No. 16.

Right Embankment on the Durbachati Khal.

This is a continuous line of embankment on the right bank of the Durbachati khal, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhudaha Factory Chimney in the village of Bhúdaha of pargana Mandalghat, and terminates at a masonry-pillar distant 57 feet south-east of the Machnan masonry-sluice in the village of Máchnán in the said pargana.

(The following Notification has been published with respect to this embankment :-

Notification No. 223, dated the 11th November, 1902, pub-

lished in the Calcutta Gazette, 1902, Pt. I, p. 1488. In modification of the description and length of the right

embankment on the Durbachati khal, being No. 16 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information :-

No. 16.

Right Embankment on the Durbáchati Khal.

This is a continuous line of embankment on the right bank the Durbdehuli khal, 2 miles 960 feet, more or less, in

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length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhudaha Factory Chimney in the village of Bhudaha of pargana Mandalghut, and terminates at a masonry-pillar, distant 57 feet southeast of the Jassur masonry-sluice in the village of Salika in the said pargana.)

No. 17.

Mohankháli Circuit Embankment.

This is a circuit embankment 28 miles 3,258 feet, more or less, in length. It commences at a masonry-pillar fixed in the village of Kultikri where the Mohankháli river runs into the Rupnarain river, and passing along the right bank of the Mohankháli river through the villages of Jothghanashyám, Sitápur Mánuyá to Basantapur, where the Mohankháli and Durbáchati rivers bifurcate, thence skirting the left bank of the Durbáchati river it passes through the villages of Shápur, Basáripur, and Brahmagriha to Káchda, thence skirting the Rupnarain, right bank, it passes through the village Dudhkomrá and Bághchená, and terminates at the masonry-pillar aforcsaid.

No. 18.

Párná Circuit Embankment.

This is a circuit embankment 9 miles 3,640 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilai river and its junction with the Kánsái river near a temple in the village of Báragovinda, pargana Baradá. It passes through the villages of Barmadihi and Ránibázár, on the left bank of the Shilái river, and then along the right bank of the Kántá khal through the villages of Bhángádaha, Párná, Bármadihijhil, Tabli, and Dharmapur, and terminates at the aforesaid pillar.

No. 19.

Ghatal Circuit Embankment.

This is a circuit embankment 10 miles 1,850 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its bifurcation with the Argará river, and passing along the left bank of the Shilái river and through the villages of Shrirámpur, Básudebpur and Sinhapur, it skirts the right bank of the Argará thai

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through the villages of Ramchandrapur, Raghunathchack and others, and terminates at the masonry-pillar aforesaid.

No. 20.

Shekhpur Circuit Embankment.

This is a circuit embankment, 18 miles 5,108 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the bifurcation of the rivers Sankra and Jhumi in the village of Shekpur of pargana Bayda, and passing along the left bank of the Jhumi river through the villages of Shrimantapur, Anandapur and Thakrunchak, thence along the right bank of the Sankra river through the villages of Narasinhachak, Kulat, Gujrat and others, terminates at the aforesaid masonry-pillar.

No. 21.

Khásbar Circuit Embankment.

This is a circuit embankment 5 miles 5,240 feet, more or less in length. It commences at a masonry-pillar built in the ground at the point of bifurcation of the Jhumi and Amdå rivers in the village of Lalchak, pirgana Barada and passing along the right bank of the Jhumi river through the villages of Parvatichak, Prasa'lchak and Jaybagh, and thence along the left bank of the Amdå river through the villages of Khasbar. Soi and Lalchak, it terminates at the aforesaid masonry-pillar.

No. 22.

Chetuya Circuit Embankment.

This is a circuit embankment 45 miles 1,420 feet, more or less in length. It commences at a masonry-pillar built in the ground at the junction of the Rupnarain river and Mohánkáli khal in the villags of Mahishghátá, pargana Kháriji Mandalghát and passing along the left bank of the Mohankhali khal through the villages of Dakhidbar, Gaurichak, Govindanagar and Brantapur, thence along the left bank of the Kánsái river through the villages of Kolá, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Sarathpur, Raghunáthpur and Konnagar, to the janction of the Shilái and Rupnáráin rivers at Pratáppur, and thence along the right bank of the Rupnarain river through the villages of Harishpur, Jalkanárám, Ránichak and

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Gopiganja, it terminates at the aforesaid masonry pillar.

No. 23.

Dushwaspur Circuit Embankment.

This is a circuit embankment 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kansai river, distant 704 feet and bearing 2.° from the Dushwaspur sluice in the village of Dushwaspur of pargan i Chetuya, and passing along the right bank of the Kansai river through the villages of Nabindaspur, Kunjapur. Maheshpur, Telandi, and Brikshabanpur, thence passing along the left bank of the Petuya khal through the villages of Fatchpur. Gadaipur and Dhankhola, it terminates at another masonry-pillar in the village of Krittibaspur, pargana Chetuya.

No. 24.

Nádájol Embankment.

This is an embankment 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kansai river in the village of Samat, pargana Chetuya, and passing along the left bank of the Kansai river to the village of Madanmohanpur, and thence along the right bank of the Shilai river through the village of Ramadevpur, it terminates at another masonry-p llar in the village of Chandikhali. pargana Chetuya.

No. 25.

Brindavanchack Embankment.

This is an embankment 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindávanchack, pargana Khariji Mandalghát, and running along the right bank of the Durbáchati khal, terminates at another masonry-pillar in the same village.

No. 26.

Dhángadiyá Embankment.

(Excluded by Notification dated the 24th November, 1887, published in Calcutta Gazette, 1887, Pt. I., p. 961.)

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No. 27.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 7 miles 3,980 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Gaurbázár of parguna Shergad, and terminates at a masonry-pillar at the junction of the Tumni khal with the Ajai river in the village of Kájládihi of pargana Shanpáhádi.

No. 28.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry-sluice near the junction of the Tunni and Bálpáhádi khals in the village of Vishnupur of pargana Shanpáhádi, and terminates at the masonry-pillar in the village of Arjunbani in the said pargana.

No. 29.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sátkoniyá, pargana Shanpáhádi, and terminates at a masonry-pillar in the village of Ságarpostá of pargana Gopibhum.

No. 30.

Left Embankment on the Ajai River.

This is a continuous line of embankment on the left bank of the Ajai river, 3 miles, more or less. in length. It commences at a masonry-pillar fixed in the ground in the village of Sinhi of pargana Azmatshahi, and terminates at a masonry-pillar in the village of Bamuniya in the said pargana. OF 1878:1

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No. 31.

Right Embankment on the Damodar River. (Excluded by Bengal Government's Order No. 674 1., dated the 17th April, 1891.)

No. 32.

Left Embankment on the Damodar River.

This is a continuous line of embankment on the left bank of the Damodar river, 107 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shiliyá, pargana Chámpánagar, and terminates at a masonry-pillar in the village of Alipore of pargana Manda eghát.

No. 32 A.

Left Bank of Damodar River.

This is a continuous embankment about 8 miles, more or less, in length. It commences at a masonry-pillar in the main embankment at its bifurcation therewith in the village of Chanchai, and forms nearly a chord line with the edge of the river Damodar, forming part of the Mymaree Road in the village of Kusbah, and terminates at a masonry-pillar in the village of Joyrampur, north-east of Kalnah, where it again joins the main line of embankment.

(No. 32 A. was included in this Schedule by Notification No. 315, dated the 16th August, 1875, published in Calcutta Gazette, 1875, Pt. I. page 1073.)

No. 33.

Right Embankment on the Damodar River.

(Excluded by Bergal Government's Order No. 674 I., dated the 17th April, 1891.)

No. 34.

Right Embankment on the Damodar River.

(Excluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)

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No. 35.

Right Embankment on the Damodar River.

(E.ccluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)

No. 36.

Right Embankment on the Damodar River.

This is a continuous line of embankment on the right bank of the Damodar river, 18 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Wazirpur, paryana Háveli, and terminates at a masonry-pillar in the village of Dihi Bársat of paryana Bársat.

No. 37.

Right Embankment on the Damodar River.

This is a continuous line of embankment on the right bank of the Damodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gáigháti khal with the Damodar river in the village of Gáighátí, pargana Arsa, and terminates at a masonry-pillar at the junction on the Rupnarain and Hooghly rivers at the thirty-second mile-post on the Rupnarain left embankment in the village of Magrapáthar of pargana Mandalghát.

No. 38.

Left Embankment on the Rupnarain River.

This is a continuous line of embankment on the left bank of the river Rupnarain, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rupnarain river and the Bakshi khal in the village of Bakshi, pargana Mandalghat, and terminates at a masonry-pillar at the junction of the Hooghly and Rupnarain rivers at the thirty-second mile-post of the Rupnarain embankment in the village of Magrapathar, pargana Mandalghat.

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No. 39.

This is a continuous line of embankment, 41 miles and 155 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Khodalgobra, pargana Virakul, and, running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry-pillar on the Kanthi and Khejri Road on the right bank of the Rasulpur river in the village of Shyamchak, pargana Kaodamal.

No. 40.

This is a continuous line of embankment, 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the Kanthi and Khejri Road on the right bank of the Rasulpur river in the village of Shyamchak, pargana Kaodamal, and running along the right bank of the Rasulpur river as far as the Kanthi and Tamluk Road, and thence along the right bank of the Shripai river, terminates at a masonry-pillar in the village of Atlagadi, pargana Majnamuta.

(The following portion of this embankment was excluded from this Schedule by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527, namely:—

a portion, 23 miles and 4,066 feet in length, commencing from the pillar in the village of Atlayori and ending at a pillar on the right bank of the Rasulpur river in the village of Dand (parellia, pargana Bahirimutta.)

No. 41.

This is a circuit embankment on the right bank of the Rasulpur river, 2 miles 4,868 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Sánbediyá, pargana Báhirimuttá.

No. 42.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Atlagadi, pargana Majnamuta, and running along the left bank of the Shripai river as far as the village of Keshurkunda on the Kanthi add Midnapore Road, and thence in a northerly direction to Chaumukh on the Bagdaha river, and thence along the right bank of the Baliaghai

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khal to the east of the Dhubdá jhil, terminates at a masonrypillar on the sand-ridge in the village of Madhavpur, pargana Bhograi.

(The following portions of this embankment were excluded from this Schedule by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527, namely:—

a portion from Atlagori to Dakhin Chowmuk, 18 miles in length, and another portion from Balliaghye to Madhubpur, 11 miles in length.)

No. 43.

(Excluded by Notification No. 198, dated the 14th June. 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527.)

No. 44.

(Excluded by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527.)

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, pargana Sujámutá, and running along the left bank of the Ekhtiyárpur khal to its junction with the Madhukháli river, thence running along the left bank of the Madhukháli river to the Chauddachuli Inspection Bungalow at the confluence of the Rasulpur river and the Kanjapur or Talpati khal, thence running along the left bank of the Kunjapur or Talpati khal to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldi, thence following the right bank of this river as far as the junction of the Káliághái and Kánsái rivers, and lastly running along the right bank of the Káliághái river, terminates at a masonry-pillar at the village of Nilakanthapur, pirgana Jalámutá.

No. 46.

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Kaliaghai river. It commences at a masonry-pillar built in the ground in the village of Kharan, pargana Pataspur, and terminates at another masonry-pillar in the said village.

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No. 47.

This is a circuit embankment, 34 miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the the Barju ghat in the village of Barju pargana Narnamuta, and running along the right bank of the Madhuthali river, the left bank of the Bagdaha river, and the right bank of the Chakbhavani khal, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbadi, Dishimila, Khamgada, Idalpur, Kalarathari, Nishchintar, Ullalbar, Kanyabar, Bhastagada, Khala Kalkadari, Sundarpur, Mallikpur, Ballabhpur, Sukakhola, Udaypur, Gopalpur, Badaadapur, Tamalpur, Chakbata, Kalsai, Kulbediya, Chakmathuri, Chakhabani, Bhairavadari, South Chanda, Mangalpur, Dakshindara, Pratapdighi, Bamanbasan, Sitadighi, Krishnangar, Paneshwari, Sharadabar, Mahura, Chakrashal, Khakuda, Mangalchak, Tonab la, Arjunnagar, Puruliya, Maheshda, Khangada, Maldaha, Barji, and parganas Narnamuta, Kismat Pataspur, Kismat Danta, Kharaig, Pratapjan, Pataspur and Bhatgad.

No. 48.

This is a circuit embankment, 11 miles 1,541 feet, more or less, in length, ly ng between the Madhukhali river and Udbadal khal. It commences at a masonry-pillar built in the ground at the junction of the Madhukhali river and Udbadal khal in the village of Naturiya, pargana Narnamuta, and passing through the villages of Udbadal, Champainagar Kanashd ghi, Nathara, Khatmari, Itabediya, Naudighi Manikjod, Hansghariya, Manikjod Basudevbediya, Patarbediya pargana Narnamuta terminates at the aforesaid pillar.

No. 49.

This is a circuit embankment, 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyárpur khal, Madhukháli river, and Udbádal khal. It commences at a masonrypillar built in the ground at the junction of the Madhukháli river and Ekht yárpur khal in the village of Raghunáthchak, pargana Nárnámutá, and running along the left bank of the Madhukháli river, left bank of the Udbádal khal and right bank of the Ekhtiyárpur khal, terminates at the aforesaid pillar. It passes through the villages of Udbádal, Patna, Dumurdari, Padutárdi, South Biyadá, Ichhápur, Pánehghariyá Bhúpatinagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jaganmohanpur, Chámpáinagar, Khánjádápur, Udbádal, and the parganas of Nárnámutá and Káodámál.

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No. 50.

This is a continuous line of embankment, 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchack, pargana Ságámutá, and running along the right bank of the Ekhtiyár-pur khal, terminates at a pillar in the village of Rádhápur, pargana Erinchi.

No. 51.

This is a circuit embankment, 7 miles 2,735 feet, more or less, in lengh, between the Káliághai river and the Bágai khal. It commences at a masonry-pillar built in the ground at the junction of the Kálliághái river with the Bágai khal in the village of Daropátná, pargana Patáspur, and passing through the villages of Gokulpur, Gholáhát, Daropátná, pargana Patáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is a circuit embankment 20 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpati khal with the Rasulpur river in the village of Gumgad, pargana Kasbá Hijli and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Tálpati khal in the Bay of Bengal, and thence running along the south bank of the Tálpati khal, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Davichak, Dandachak, Kátká, Shyámpur, Bághá, Padurbediyá, Nenapátá, Mohendranagar, Kálágachiyá Pánchbadi, Osilchak, Honábediyá Orakbediyá, Sálkondá, Sáhebchiak, Bámanchak, Badabádi, Phulbádi and Mulichak, all in the pargan i Kaská Hijli.

No. 53,

This is a continuous line of embankment, 60 miles 4,110 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kansai river in the village of Bargoda, pargana Tamluk, and running along the left bank of the Kansai and Haldi rivers to the confluence of the latter with the river Hooghly, and thence along the right bank of the Hooghly and Rupnarain rivers, terminates at a masonry-pillar in the village of Banka, about one-fourth of a mile north of a Hindu temple on the left bank of the Banka khal.

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No. 54.

This a circuit embankment, 12 miles 2,550 feet, more or less, in length, situated between the Káliághái and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Káliághái river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhadi, Lakshmanpur, Nárikeldihi, Shunábhay, Áshnan, Chanddabediyá, Máchodal, Kholákhál, Kálkádadi, Pánchpukuriyá, Krishnachak and Sálgediyá, all in the pargana Tamluk.

No. 55.

Rampur-Boalia old Embankment.

(Excluded by Notification dated the 23rd February, 1885, published in Calcutta (fazette, 1885, Pt. I, p. 139.)

No. 55.

Talaimari Embunkment.

This is a continuous line of embankment on the left bank of the river Ganges, 8,224 feet in length, more or less. It commences at a brick-pillar at the village of Sahibganj, pargana Gururhat, passes through villages Ghoramara and Ramchandrapur, and terminates at a brick-pillar fixed at the village of Talaimari, pargana Lashkarpur, where it joins with the Rajshahi and Pabna Road.

(This No. 55 was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 197, dated the 12th February, 1895, published in Calcutta Gazette, 1895,

Pt. I, p. 127.)

No. 56.

Rampur-Boalia Embankment.

(Excluded by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139.)

No. 56.

Boalia Embankment.

This is a continuous line of embankment on the left bank of the river Ganges. 14,180 feet in length, more or less. It

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commences by its junction with the pucca road at a brick-pillar in the ground at the village of Kassaipara, 1,170 feet, west of Bara Kuti, pargana Gururhat. It passes through villages Kassaipara, Khasmahal, Srirampur, Nababganj, Nabinagar, and Bulanpur, and terminates at a point where it joins with the Godagari road embankment in the village of Bulanpur, pargana Gururhat, its termination being marked by a brick-pillar in the ground at this point north-west of the Judge's Court-house.

(This No. 56 was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895,

Pt. I, p. 127.

No. 56 A.

Cutcherry Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 1,729 feet in length, more or less. It commences at a brick-pillar fixed in the ground on the south side of the Nator road at the village of Bulanpur, pargana Gururhat, and terminates at a point where it meets the Rampur-Boalia embankment in the village of Bulanpur, pargana Gururhat.

(No. 56 A was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 127.)

No. 56 B.

Godagari Road Embankment.

This is a continuous line of embankment (which is also a district road) on the left bank of the river Ganges, 12,250 feet in length, more or less. It commences at a brick-pillar fixed in the ground at the termination of Rampur-Boalia embankment, Schedule D. No. 56, north-west of Judge's Court-house, in the village of Bulanpur, pargana Gururhat, passes through villages Khasmahal, Chaluai, Haropur, Gobindapur, and Nabaganga, and terminates at a brick-pillar fixed in the ground in the village of Sonaikandi, pargana Gururhat.

the village of Sonaikandi, pargana Gururhat.
(No. 56 B was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette. 1885, Pt. 1, p. 139, as amended by Notification No. 797, dated 19th February, 1895, published in Calcutta Gazette. 1895,

Pt. I, p. 187.)

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No. 57.

Malda Embankment.

This is a continuous line of embankment on the right bank of the Mahanadi river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, pargana Amirabad, and terminates at a masonry-pillar in the village of Maheshpur, pargana Bhatiya.

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No. 58.

Left Embankment on the river Hooghly.

This is a continuous embankment on the left bank of the river Hooghly, 5 miles 4,500 feet, more or less, in length. It commences at Manikháli *khal*, at a masoury-pillar fixed in the ground in the village of Jagnnáthnagar, and terminates at a masonry-pillar in the village of Mijghar, on the north side of Chadiyal *khal* near the junction of the Hooghly river and Chadiyal *khal*.

No. 59.

Right Bank of Chadiyal Khal.

This is a continuous embankment on the right bank of the Chadiyal khal, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Mijghar, on the north side of Chadiyal khal near the junction of Hooghly river and Chadiyal khal, and terminates at a masonry-pillar in the village of Gharbanmoniyá, on the north bank of Chadiyal khal near the junction of Chadiyal khal and the Calcutta and Achipore Road.

(A portion of this embankment, measuring 1,150 feet, commencing from will use Banihanpara and terminating in village Chadiyal at the masonry-pillar on the side of the Calcutta and Achipore Road, was relinquished under order by the Government of Bengal, Revenue Department No. 2014, dated the 23rd May, 1892.)

No. 59 A.

Right Bank of Chadinal Khal.

This is a line of embankment 1,290 feet, more or less, the length, constructed in 1891 on the right bank of the Chadiyal

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drainage outfall channel. It commences from the end of the old Chadiyal *khal* right embankment, abandoned in 1892, in the village of Banjhanpara, *pargana* Ballea, district 24-Parganas, and running along the right bank of the new Chadiyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the river Hooghly at its sixth mile in the village of Joychandipore, *pargana* Ballea, district 24-Parganas.

(No. 59A was included in this Schedule by Notification No. 177, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 503. The Notification declared that this embankment should remain in the Schedule only so long as the Chadiyal khal drainage works are maintained. Those

works are still maintained.)

No. 60.

Left Bank of Chadiyal Khal.

(A portion of this embankment, measuring 1,290 fect, commencing from the masonry-pillar on the side of the Calcutta and Achipore Road, in village of Joychandipur, and terminating on the side of Chadiyal khal in the same village, was relinquished under order by the Government of Bengal, Revenue Department No. 2014, dated the 23rd May, 1892. The rest of the embankment, measuring 1,990 feet, was excluded from this Schedule by Notification No. 176, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 503.)

No. 60.

Left Bank of Chadiyal Khal.

This is a line of embankment 1,100 feet, more or less, in length, constructed in 1891 on the left bank of the Chadiyal drainage outfall channel. It commences from the end of the old Chadiyal khal left embankment, abandoned in 1892, in the willage of Joychandipur, pargan r Ballea, district 24-Parganas, and running along the left bank of the new Chadiyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the Hooghly river at its seventh mile and the above-mentioned village of Joychandipur.

(This No. 60 was included in this Schedule by Notification No. 177. dated the 20th May. 1895, published in Calcutta Gastie, 1895, Pt. I, p. 503. The Notification declared that this embankment should remain in the Schedule only so long us the Chadiyal khal drainage works are maintained. Those

works are still maintained.)

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No. 61.

Lest Bank of Hooghly River.

This is a continuous embankment on the left bank of Hooghly river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Joychandipur, near the junction of river Hooghly and Chadiyal khal, and continues along the left bank of Hooghly river to Pújáli khal, on both sides of Pújáli khal, between the river Hooghly and the road leading from Calcutta to Achipur, and again down the left bank of the river Hooghly to the right bank of Faltá khal, and terminates at a masonry-pillar in the village of Faltá near the junction of river Hooghly and Falta khal.

No. 62.

Right Bank of Falta Khal.

This is a continuous embankment on the right bank of Faltá khal, 2 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Faltà, on the north side of the khal, near the junction of river Hooghly and Faltà khal, and terminates at a masonry-pillar on the right bank of Faltà khal in the village of Sohara.

No. 63.

Left Bank of Falta Khal.

This is a continuous embankment on the left bank of Faltá khal, 2 miles 1,360 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Faltá khal, in the village of Básudiápur, and terminates at a masonry-pillar on the left bank of the khal in the village of Taráganj, near the junction of River Hooghly and Faltà khal.

No. 64.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of river. Hooghly, 11 miles 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Taraganj, near the junction of river Hooghly and Falta khal, and terminates at a masonry-pillar in the village of Shimulganja, on the right bank of Kholakhali khal, near its junction with Hooghly river.

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No. 65.

Right Bank of Khólàkháli Khal.

This is a continuous embankment on the right bank of Khólákhali *khal*, 3,500 feet, more or less, in length. It commences at a masonry-pillar in the village of Shimulganja on the right bank of Khólákhal *khal*, near its junction with Hooghly river, and terminates at a masonry-pillar on the right bank of the *khal* in the village of Darigovindapur.

No. 66.

Left Bank of Khólakhali Khal.

This is a continuous embankment on the left bank of Khólákháli khal, 4,800 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kholákháli khál in the village of Jangalpada, and terminates at a masonry-pillar on the left bank of the khal in the village of Ramchandranagar, near the junction of the Hooghly river and Kholákhali khal.

No. 67.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of River Hooghly, 3 miles 2.260 feet, more or less, in length. It commences at a masonry-pillar in the village of Ramchandrapur, near the junction of Hooghly river and Khólakháli *khal*, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 68.

This is a continuous embankment on the right bank of the Diamond Harbour Creek, 7 miles 3,100 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Diyarna.

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No. 69.

Left Bank of Diamond Harbour Creek.

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Diyarna and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Madhavpur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 70.

Left Bank of the Hooghly River.

This is a continuous embankment on the left bank of the river Hooghly, 8 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Madhavpur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kalpi Nadi, in the village of Mashamari, near the junction of Hooghly river and Kulpi Nadi.

No. 71.

Right Bank of Kulpi Nadi.

This is a continuous embankment on the right bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the right bank of Kulpi Nadi in the village of Mashamari, and terminates at a masonry-pillar on the right bank of Kulpi Nadi in the village of Janakimari.

No. 72.

Left Bank of Kulpi Nadi.

This is a continuous embankment on the left bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Gauripur, and terminates at a masonry-pillar on the left bank of Kulpi Nadi in the village of Durganagar, near the junction of Hooghly river and Kulpi Nadi.

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No. 73.

Left Bank of River Hooghly.

This is a continuous embankment on the left bank of Hooghly river, 6 miles 2.640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi, in the village of Durgánagar, néar the junction of Hooghly river and Kulpi Nadi, and terminates at a masonry-pillar in the village of Chalámuri near Chalámuri Semaphore.

No. 74.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Chalamuri, near Chalamuri Semaphore, and terminates at a masonry-pillar near the right bank of the Shrirampur khal in the village of Vaidyanathpur.

No. 75.

Right Bank of Shrirámpur Khal.

This is a continuous embankment on the right bank of the Shrirámpur *khal*, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Shrirámpur *khal*, in the village of Vaidyanáthpur, and terminates at a masonry-pillar in the village of Kontáheniyá.

(The following portion of Embankment No. 75 was excluded from this Schedule by Notification No. 23, dated the 19th September, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1623. namely:—

A portion of this embankment, 3 miles 870 feet, more or less in length, commencing at a masonry-pillar on the right bank of the Srirampur khal in the village of Chuttrachuck, at the place where an embankment has been constructed across the Srirampur khal, and terminating in the village of Kontáhen-

iya.)

No. 76.

Left bank of Srirampur Khal.

This is a continuous embankment on the left bank of Srirampur khal, 9 miles 2,610 feet, more or less, in length.

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It commences at a masonry-pillar in the village of Kontaheniya, and terminates at a masonry-pillar on the left bank of the Srirampur khal in the village of Takitpur Dighi.

(The following portion of Embankment No. 76, was excluded from this Schedule by Notification No. 23, dated the 19th September, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1623, namely:—

A portion of this embankment, 4 miles 570 feet, more or less in length, commencing at a masonry-pillar in the village of Kontáheniyá and terminating in the village of Chuttrachuck at the place where an embankment has been constructed across the Srirámpur khal.)

No. 76A.

This is a continuous embankment across the Srirámpur *khal*, 500 feet, more or less, in length. It commences at a masonry-pillar in the village of Chuttrachuck and terminates in the same village at a distance of 500 feet from that pillar.

(No. 76A was included in this Schedule by Notification No. 13, dated the 16th May, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1891.)

No. 77.

Sundarban Embankment.

This is a continuous embankment in the Sunderbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Srirámpur *khal* in the village of Takitpur Dighi, and terminates at a masonry-pillar on the right bank of Khádi *khal* in the village of Gulárchánt.

No. 78.

Right Bank of Khádi Khal.

This is a continuous embankment on the right bank of Khádi khal. 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Khádi khal in the village of Gularchant, and terminates at a masonry-pillar in the village of Meghibed, near a drainage sluice.

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No. 79.

Left Bank of Khádi Khal.

This is a continuous embankment on the left bank of Khádi khal, 3 miles 2,040 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghibed, and terminates at a masonry-pillar on the left bank of the khal in the village of Kámárhátá.

No. 80.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 19 miles more or less, in length. It commences from a masonry-pillar on the left bank of the Khadi *khal*, in the village of Kamarhata, and terminates at a masonry-pillar on the right bank of Piyali river in the village of Talpi.

No. 81.

Right Bank of Piyali River.

This is a continuous embankment on the right bank of Piyáli river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river in the village of Talpi, and terminates at a masonry-pillar on the right bank of the Piyáli river in the village of Chordákáiti.

No. 82.

Right Bank of Sürjyapur Khal.

This is a continuous embankment on the right bank of Sürayapur, of Pashchanbáhan khal, 8 miles, more or less, in length. It commences at a masonry-pillar, on the right bank of Piyáli river, in the village of Chordákáiti, and terminates at Pashchanbáhan sluice in the village of Bulbuliyá.

No. 83.

Left Bank of the Sürjyapur Khal.

This is a continuous embankment on the left bank of Surjyappr or Pashchanbahan khal, 4 miles 2,640 feet, more or less

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in length. It commences at a Pashchanbahan sluice in the village of Bulbuliya and terminates at a masonry-pillar on the left bank of Sürjyapur khal in the village of Ramnagar.

No. 84.

Right Bank of the Piyali River.

This is a continuous embankment on the left side of Piyáli river, 9 miles 2,100 feet, more or less. It commences at a masonry-pillar on the left bank of Sürjyapur *khal* in the village of Rámnágar, and terminates at a masonry-pillar on the right bank of Vidyádhari river, in the village of Sángar, near the junction of Vidyádhari and Piyáli rivers.

No. 85.

Left Bánk of Piyali River.

This is a continuous embankment on the left bank of Piyali river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyali river in Sundarban Lot No. 45, and terminates in a masonry-pillar on the right bank of the Baghmari khal in the village of Jalyerat, near the junction of Piyali river with Baghmari khal.

No. 86.

Left Bank of Bághmári Khal.

This is a continuous embarkment on the left bank of the Baghmari khal, 2 miles 2,610 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerat, near the junction of Piyali river and Baghmari khal, and terminates at a masonry-pillar at the side of Matla road in the village of At Ramdhar.

No. 87.

Right Bank of Bághmári Khal.

This is a continuous embankment on the right side of Bághmári khal, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar at the side of Matla road in the village of Kulari, and terminates at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálabaruyi.

(Schedule D.)

No. 88.

Left Bank of Piyali River.

This is a continuous embankment on the left bank of the Piyáli river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálábáruyi, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

(The following portion of embankment No.88 was excluded from this Schedule by Notification No. 13, dated the 21st December, 1907,—published in Calcutta Gazette, 1907, Pt. 1, p. 2307, namely:—

A portion of this embankment, 3 miles 3,418 feet, more or less, in length, commencing in the village of Goredaha, 100 feet north of Eastern Bengal State Railway line, where the embankment crosses it and ending at the vilage of Kalaboro, 2,370 feet south of the Canning Road.)

No. 89.

Left Bank of Piyáli River.

This is a continuous embankment on the left bank of Piyáli river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Shrikrishnapur, and terminates at a masonry-pillar on the right bank of Vidyádhari river near the junction of Vidyádhari and Piyáli rivers.

No. 90.

Right Bank of Vidyadhari River.

This is a continuous embankment on the right bank of Vidyádhari river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river in the village of Báliyápur, and terminates in a masonry-pillar on the right bank of the same river, near the junction of Vidyádhari and Piyáli rivers.

¹ This number was altered from "B" to "13" by notification dated the 6th January, 1908, published in the Calcutta Gasette, 1906, Pt. I, p. 41.

of 1872.}

(Schedule D.)

No. 91.

Right Bank of Vidyadhari.

This is a continuous embankment on the right bank of Vidyádhari river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyádhari and Piyáli rivers in the village of Sángar, and terminates at a masonry-pillar on the right bank of Vidyádhari river near its junction with Tolly's Canal in the village of Pratápnagar.

No. 92.

South side of Tolly's Canal.

This is a continuous embankment on the south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyádhari river and Tolly's Canal in the village of Pratápnagar, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmábad.

No. 93.

North side of Tolly's Canal.

This is a continuous line of embankment on the north side of Tolly's Canal, 2 miles 4,020 feet, more or less in length. It commences at a masonry-pillar on the north side of the Tolly's Canal, in the village of Naoyábád, and terminates at a masonry-pillar in the jungle in the village of Tehuráhá.

No. 94.

Bhagirathi Embankments.

This is a line of disconnected embankment on the left bank of the Bhagirathi river, extending from Palashi bazar, pargana Palashi, district Nadia, to Dadmati, pargana Rokanpur, district Murshidabad, a distance of about 93 miles.

(The following portion of this embankment was excluded from this Schedule by Notification No. 149, dated the 20th

(Schedule D.)

May, 1901, published in Calcutta Gazette, 1901, Pt. 1, p. 655, namely :-

the portion that lies between the new Bhagwangola retired embankment and the north-west corner of the said embankment near the 69th milestone.)

The following notification has been published with respect to this embankment :-

Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.

In modification of the length and description of the Embankments Nos. 94 and 94A and of No. 95 in Schedule D of Act VI (B.C.) of 1873, the following is published for general information :-

No. 94.

Bhagirathi Embankment.

This is a line of disconnected embankment on the left of the Bhagirathi river, extending from Bhagwangola, pargana Islampur, district Murshidabad, to Plassey, pargana Plassey, district Nadia, a distance of about 58 miles 740 feet.

No. 94A.

Mowla cross-bund.

Cross embankment to protect the village of Mowla (Rajpur) in the district of Murshidabad, connecting the existing portion of embankment No. 94 of the Bhagirathi left embankment, in mile 34, chain 12, with the new retired line of the same embankment in mile 34. chain 13.20. The length of this cross embankment is 507 feet.

(Embankment No. 94A was included in this Schedule by Notification No. 18, dated the 20th June, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1127.)

The following notification has been published with respect to this embankment :-

Notification No. 9, duted the 13th July. 1909, published in

Calcutta Gazette, 1909. Pt. I, p. 970).
In modification of the length and description of the Embankments Nos. 94 and 94A and of No. 95 in Schedule D of Act VI (B.C.) of 1873, the following is published for general information :--

of 4076.]

(Schedule D.)

No. 94A.

Mowla cross-bund.

This is a small cross-bund joining embankment No. 94 (Bhagirathi embaukment) with the new Mowla retired line as a protection to the Rajapur village on the left bank of the Bhagirathi river, pargana Kulberia. district Murshidabad, a distance of about 507 feet.

No. 94B.

Ganges Embankment.

This is a line of continuous embankment on the right bank of the Ganges river, extending from Bhagwangola, pargana Islampur, district Murshidabad, to Dadmati, pargana Kashipur, district Murshidabad, a distance of about 10 miles 2,980 feet.

(Nos. 94B and 94C were included in this Schedule by Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.)

No. 94C.

Ganges-Bhagirathi Embankment.

This is a line of continuous embankment on the right bank of the river Ganges and left bank of the Bhagirathi river, extending from Bhagwangola, pargana Islampur, district Murshidabad, to Kulgachi, pargana Dehat Akharshahi, district Murshidabad, a distance of about 15 miles 3.505 feet.

(Nos. 94B and 94C were included in this Schedule by Notification No. 9, duted the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.)

No. 95.

Kachikata Embankment.

This is a continuous line of embankment about 5,220 feet in length, on the right bank of the Mathabhanga river. It commences in the village of Lakshimpur or Ramnagar, pargana Shahanijiyal, district Nadia, and terminates at

(Schedule D.)

Parkrishnapur at the bottom of the new cut opposite the village of Munshigunge in the same pargana and district.

(This No. 95 was substituted by Notification No. 9, dated the 13th July, 1909, published in Calcutta Guzette, 1909, Pt. I, p. 979, for the No. 95 published with Notification No. 353, dated the 8th November, 1887.)

No. 96.

Panchanogram Embankment.

This is a continuous embankment, 3 miles and 1,40.) feet, more or less, in length in the Government estate, Panchanogram. It commences in village Kalikopore, and terminates in villages Shaumbadut and Chowbhanga of pargana Calcutta, Dehi Panchanogram.

(This embankment was included in this Schedule by Notification No. 160, dated the 8th April, 1884, published in Calcutta Gazette, 1884, Pt. I, p. 516. That Notification declared that the embankment should remain in the Schedule as long as the Government is the proprietor of the Panchanogram estate. The number "96" was given by Notification No. 275, dated the 20th July, 1886, published in Calcutta Gazette 1886. Pt. I, p. 865.)

No. 97.

Connecting Embankment.

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles 986 feet, more or less, in length. It commences at the Mohanpore Lock of the Midnapore Canal in the village of Sopeabad of pargana Khurruckpore, and terminates at a masoury-pillar in the village of Inda in the said pargana.

(No. 97 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Pt. 1, p. 865.)

No. 98.

Khurruckpore Embankment.

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the

(Schedule D.)

village of Chorapal of pargana Khurruckpore, and terminates at a masonry-pillar in the village of Inda in the said pargana. (No. 98 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Pt. I, p. 865.)

No. 99.

Flank Embankment.

This is a continuous line of embankment on the left bank of the Cossye river, 4,000 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground near the Midnapore Workshops in the village of Nankar Bullubpore of pargana Midnapore, and terminates at the north abutment of the Midnapore weir in the village of Srirampore in the said

(No. 99 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Pt. I, p. 865.)

No. 100.

Chowmuk Embankment.

(This embankment was included in this Schedule by Notification No. 29, dated the 24th January, 1888, published in Calcutta Gazette. 1888, Pt. I, p. 63, and excluded again by Notification No. 219, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Pt. I, p. 717.)

No. 100A.

Chowmuk Embankment.

This is a continuous line of flood embankment, 6 miles, more or less, in length, and forms the right bank of the Balliaghya Drain, and takes the place of the left embankment, Chowmuk No. 100, to be now abandoned as superfluous. It commences from the Surpai Drainage sluice in the village of Surpai, pargana Narooamootta, and runs up to village of Chowmuk, pargana Paharpur.

(No. 100A was included in this Schedule by Notification . No. 220, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Pt. I, p. 718. The Notification declared that this embankment should remain in the Schedule only so long as the Government is the proprietor of the estates to which it of ords protection.)

[Ben. Act 6 of 1878.]

(Schedules B. E.)

Boycaree Boar Water-course.

Whereas it appears to His Honour the Lieutenant-Governor of Bengal that the water-course, known as Boycaree Boar, from the Koyjoori Regulator. in the village of Koyjoori, in the district of 24-Parganas, passing through the villages of Kalinee and Boycaree. in the district of Khulna, joins Darbhanga Bheel channel at about 3,500 feet below Bagdipara, in the district of Khulna, and drains Bullee bheel and the adjacent country; it is proclaimed for general information that this water-course, 2 miles and 940 feet in length, is declared a public water-course, and will be included in Schedule D under the provisions of sections 7 and 43 of Act 11 (B.C.) of 1882.

(This water-course was included in this Schedule by Notification No. 178, dated the 20th May. 1895, published in Calcutta Gazette. 1895. Pt. I. p. 504.)

Northern Drainage Cut Water-course.

This water-course was included in this Schedule by Notification No. 12, dated the 21st March, 1910, published in Calcutta Gazette, 1910, Pt. I, p. 414, which runs as follows:—

Whereas it appears to His Honour the Lieutenant-Governor of Bengal, that the water-course, commonly known as the Northern Drainage cut, on the left bank of the river Bhagirathi from Bistupur Bhil to Gobra Nala. in the district of Murshidabad, has been taken over from the Murshidabad District Board in connection with the Bistupur Drainage Project, it is notified for general information that this water-course, five miles in length, is declared a public water-course, and will be included in Schedule D of Act VI (B.C.) of 1873 under the provisions of sections 7 and 43 of Act II (B.C.) of 1882.

SCHEDULE E.

(Referred to in sections 36 and 44.)1

Pargana.		District.		Amount of contribution.				
Fatchsinha Rokanpur	•••	Murshidabad Ditto		•••	Rs. 1,706 1 466	٠,		-

¹ Sections 36 and 44 of this Act were repealed by the Bengal Embankment Act, 1962 (Ben Act, 2 of 1882), s. 2, printed post, p. 685. But sections 44 and 54 of the laster Act contain provisions as to this Schedule.

BENGAL ACT 5 OF 1875

(THE BENGAL SURVEY ACT, 1875).

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THE BENGAL SURVEY ACT, 1875.

of 1875.]

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BENGAL ACT 5 OF 1875

(THE BENGAL SURVEY ACT, 1875).1

(6th October, 1875.)

An Act to provide for the survey and demarcation of land.

Whereas it is expedient, with a view to the definition and Preamble. identification of lands, the better security of landed property and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries; It is hereby enacted as follows :--

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Survey Act, 1875.

(Commencement). Rep. by the Repealing and Amending short tith Act, 1903 (1 of 1903), now known as the Ameding Act, 1903—vide Act 10 of 1914, Sch II.

It extends to the territories for the time being subject to the Local external Lieutenant-Governor of Bengal.

2. In this Act, unless there be something repugnant in the Interpretation-class subject or context,-

"Collector" means every Collector of a district, and includes "Collector every officer either generally or specially vested with the powers of a Collector for the purposes of this Act:

"Deputy Collector" includes any Deputy Collector to whom "Deputy Collector or Superintendent of Survey may delegate any of Collector." the Collector or Superintendent of Survey may delegate any of his functions under this Act:

" estate" means—

any land which is entered on the revenue-roll as "Estate." separately assessed with the public revenue;

I of this Code.

Deputy Collectors making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), have the powers of a Survey Officer under the present Act—see s. 44 of the former Act, in, Vol. III of this Code.

BOUNDARY-MARKS.—As to the application of ss. 19, 20, 29 and 52 to 57 of the present Act to boundary-marks erected under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), see s. 66 (2) of the latter Act, in Vol. III of this Code.

This includes the present Possidency of Fert William in Bengai and other territory.

¹ Legistrative Papers.—For statement of Objects and Reasons, see Calcutta Gazette, 1875, Pt. IV, p. 41; for Report of Select Committee, see ibid, p. 461; and for Proceedings in Council, see ibid, 1876, Supplement, pp. 14, 850, 928, 987.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see s. 1; but there is now a separate Act for Calcutta, which is also applicable to Provincial Municipalities—see the Calcutta Survey Act, 1887 (Hen. Act 1 of 1887), post p. 988.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) printed in Vol. I of this Code.

Exercise of Powers.—For power to confer on Revenue-officers any power, exerciseable by any officer under the present Act, see the Bengal Tenancy Act, 1885 (8 of 1885), s. 189 (b), in Vol. I of this Code.

(Part II.-Of the Survey.-Sec. 3.)

any land acquired from the Government under one title, which is liable to pay land-revenue at any future time:

any char or island thrown up in a navigable river or in the sea which under the laws in force is at the disposal of the Government;

any land which is entered on the Collector's registers as a separate holding, free in perpetuity from liability to pay land-revenue;

- any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which, under the laws in force, is considered an increment to the tenure to which such land has accreted, shall be deemed a part of such estate:

" Manzu."

"mauza" includes every village, hamlet, tola and similar sub-division of an estate, paryana or village by whatever name such sub-division may be known:

" Occupant."

"occupant" includes every zamindar, tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every raiyat in occupation of land:

" Section."

"Survey."

"section" means a section of this Act:
"survey" includes identification of boundaries, and allother operations antecedent to and connected with survey:

"Tenure."

"tenure" includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of raiyats having a right of occupancy only; it also includes all ghatwali holdings:
"tenure-holder" means all or any of the holders of a

" Tenur

" Zaminda

"zamindar" means all or any of the holders of an estate.

PART II.

OF THE SURVEY.

deutenant-Governor may

The Lieutenant-Governor may, whenever he shall think fit, order that a survey shall be made of the land situated in any district or in any part of a district or in any specified tract of country, and that the boundaries of estates, tenures, mauzas or fields be demarcated on the lands so to be surveyed:

Provided that, in any district of which any survey may have been completed and approved by the Government, it shall not be lawful for the Lieutenant-Governor to order a new survey

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1875.]

(Part II.-Of the Survey.-Secs. 4, 5.)

of lands on the banks of rivers or on the sea-shore to be made for the purposes described in Act 9 of 1847 (an Act regarding the assessment of land gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa), until ten years shall have expired from the completion and approval of any such previous survey.

4. For the purpose of carrying out any survey directed to Lieutenant be made under the last preceding section, or for any or all of appoint

the purposes of this Act,

the Lieutenant-Governor? may appoint a Superintendent of Survey. Survey, who may exercise all or any of the powers of a Collector under this Act;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey, and not otherwise:

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, it shall be competent to the Board of Revenue to direct that the Collector shall perform any duties under the Act within the said tract.

5. Before entering on any lands for the purpose of a Collector to survey the Collector shall cause to be published a proclamation publish proclamation clamation addressed to the occupants of the lands which are about to be before enter surveyed and of the conterminous lands, and to all persons ing on lands employed on or connected with the management of, or otherwise interested in. such lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorized by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary-marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

Such proclamation shall be published by posting a copy

thereof-

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated;

at every sub-divisional office, police-station, Munsif's Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated;

Superinten-dent of

¹ The Bengal Alluvion and Diluvion Act, 1847. It is printed in Vol. I of this Code.
² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriska and Assam Laws Act 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

[Bon. Act 5

(Part II.-Of the Survey.-Secs. 6-11.)

at one or more mál-cutcherries on each estate; and at such other place or places as to the Collector may seem fit.

cllector may nter upon and.

6. After issue of a proclamation as aforesaid, the Collector and any persons acting under his authority may enter upon such lands, and do all things and make all inquiries necessary for effecting the survey and demarcation of the boundaries thereof.

ollector may erve special otice.

7. The Collector may also, by a special notice, require any such person to attend before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid; and every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

lollegtor to ay price of bour suplied.

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

lollector may oundary

9. The Collector or other survey-officer authorized by the and to clear Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

ompensation.

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, together with payment for all expenses incurred in carrying out the said requisition.

lmin or surey-officer to ign maps or

11. When the demarcation of a village or other convenient tract has been completed, the amin or other survey-officer shall, before sending in to the Collector the maps and papers relating thereto.

by a general notice, in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract,

call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting the maps, field books and similar papers in which any boundary pointed out by any such person has been represented, and, by signing such maps and papers, to certify that the boundaries have been laid

(Part II.—Of the Survey.—Sec. 12.)

down in accordance with the boundaries pointed out by

and every person so called upon shall be legally bound to attend before such amin or survey-officer, and to inspect the

papers, in accordance with such requisition.

Any person so called upon who may object to sign the maps Statement of objections. and papers as aforesaid shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and

papers.

The signature affixed to any maps or papers under this Effect of section shall be in attestation of the fact that the boundaries thereon represented or any of them have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section.

12. On receipt in the Collector's office of the maps or papers on receipt of showing any boundaries which have been demarcated, the Collector to Collector shall cause a notification to be posted in his office, and Post in such other places as he may think proper, informing all inoffice. persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purpose of the survey.

Whenever the Collector shall have reason to believe (either Collector from the failure of any person interested or his representatives issue special to sign the maps and papers on the spot when required by the notice. survey-officer to do so under the last preceding section, or for any other reason) that any zamindar or person interested is likely to object to any boundary as laid down or as repre-

sented in the said papers,

the Collector shall cause a special notice, requiring such zamindar or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such zamindar or other person is interested, or of stating in writing

(Part II.-Of the Survey.-Sec. 13.)

the substance of any objection which he may wish to prefer against the correctness of such maps or papers;

and, if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act:

If agent deposits expenses of making copies, Collector to order them to be prepared.

Provided that, if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and as soon as they are prepared shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

Procedure when objection is stated. When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may doen necessary, shall pass such order in respect of such objections as to him shall seem fit; and, if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection.

13. Whenever any person, having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before, the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued,

the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection;

and, if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers.

If the costs of any inquiry which may be deemed necessary be deposited, the Collector shall make such further inquiry at the expense of the person so objecting; and, if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry in excess of the sum deposited, and of any necessary

Person making subsequent objection may be required to deposit costs of further inquiry.

of 1875.)

(Part III.-Of Boundary-marks.-Secs. 14-16.)

expenses incurred by any other persons on account of such

inquiry:

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection.

PART III.

OF BOUNDARY-MARKS.

14. The Collector may cause to be erected temporary Collector m boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under marks.

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey-operation shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-mark may be erected in lieu

thereof as hereinafter provided.

15. The Collector may at any time cause to be erected on collector m any land which is to be, or which has been, surveyed under erect perms nent bound this Act, permanent boundary-marks of such materials, and in ary-marks. such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, tenures, mauzas or fields for which the same are to be erected:

Provided that, seven days before he proceeds to the erection Specificants of marks at of any permanent boundary-marks, the Collector shall, for the estimate of any permanent boundary-marks, the Collector shall, for the estimate of cost to be information of all concerned, cause to be posted in his office, cost to and in the mal-cutcherry or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

16. All expenses incurred by the Collector in erecting Apportion ment of extemporary or permanent boundary-marks under this Act, penses. shall, in manner hereinafter provided, be apportioned among, and levied from, the zamindars and tenure-holders on their estates:

Provided that no tenure-holder shall be liable to pay any * portion of the expenses incurred by the erection of boundarymarks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundarymark.

(Part III.-Of Boundary-marks.-Sees. 17-21.)

Rent-free lunds deamed part of tenure. 17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint:

Provided that no rent-free holding of which the annual value is less than five rupees shall be liable to pay any portion of the expenses of creeting boundary-marks under this

Act.

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark, and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark.

Zamindar, etc., bound to preserve boundarymarks and give notice to Collector when injured.

Procedure

occupant fails to maintain boundarymark.

19. Every zamindar, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured destroyed or removed or require rapsing

injured, destroyed or removed, or require repairs.

20. Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair, in such proportions as he shall think fit, from the zamindars and tenure-holders to whom such boundary-mark may have been assigned in that respect under the provision of section 29: and all such expenses shall be recoverable as provided in section 57.

Collector may re-crect injured boundary-marks and recover gapenses from samindar, etc

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land under the directions of the said Collector, and with the consent of such occupant.

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be

apportioned and recovered as provided in Part IV.

Collector may course boundary-mark to be erected by compant of hand with his consent.

(Part IV .- Of the Apportionment and Recovery of Expenses .-Secs. 22-25.)

PART IV.

OF THE APPORTIONMENT AND RECOVERY OF EXPENSES.

22. Upon the completion of the erection of boundary-marks collector to on any tract of land of which the survey may have been prepare statement of exp ordered, or on any convenient portion thereof, the Collector ses in resp shall forthwith prepare a statement of all expenses incurred marks. in respect of such boundary-marks.

23. Such statement shall show the total number of marks Contents of of each description which have been erected on such tract or statement. portion of such tract, the aggregate cost of erecting all the marks of each description, the names of the estates and mauzas within, or on the boundaries of, which any marks have been erected, and the total number of marks of each description erected within or on the boundary of each estate.

24. Upon the completion of such statement the Collector Collector to shall provisionally apportion the aggregate expenses of erecting apportion the marks among the estates specified, with reference to the marks amor number of boundary-marks of each description which have been estates. erected within or on the boundary of each estate.

25. So soon as the provisional apportionment shall have Notice to be been made as required by the last preceding section, the served. Collector shall cause a notice to be served on the zamindar of every estate on which the expenses have been apportioned—

- (a) specifying the sum which has been apportioned on his estate, and, as far as can be calculated, the sum which he will be required to pay on account of the service of notices on him under this section and section 29;
- (b) informing him that the said statement is open to inspection in the office of the Collector;
- (c) calling on him to appear in person, or by agent properly authorized, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses;

(d) warning him that if he does not appear on the date fixed in pursuance of the notice, he will be deemed to have waived all objections to the share of the. expenses apportioned to his estate;

and (unless as otherwise hereinafter provided in sections 31, 32 and 33);

(e) informing him that, under this Act, he is entitled to recover a portion of the amount which shall be

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(Part IV.—Of the Apportionment and Recovery of Expenses.— Sec. 26-28.)

finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice); and that in order to enable the Collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures, as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure;

(f) and warning him that if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector to make final apportion26. On the date fixed in such notice the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses as shall seem to him fit.

In making such final apportionment the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned, in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the zamindars of such estates.

Collector may postpone final apportionment. 27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the *zamindar* of any estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

Zeminder failing to appear deemed to have waived objections. 28. Any zamindar failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date; and any zamindar failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

(Part IV.—Of the Apportionment and Recovery of Expenses.—Secs. 29-31.)

29. So soon as the expenses shall have been finally appor- Collector to tioned under section 26 among the estates concerned as herein- issue notice before provided, the Collector shall issue a notice in respect of amount fin every estate, specifying the amount finally apportioned as apportioned payable in respect of the estate, and requiring the zamindar to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice.

If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six per centum per annum, as the Lieutenant-Governor may from time to time determine, may be levied as provided in section 57.

The notice issued under this section shall assign to the Notice sha zamindar, or to the zamindar jointly with tenure-holders, the assign boundary-marks which they are legally bound to preserve which sam under the provisions of section 19, and in respect of which they bound to will be held liable to pay the costs of re-erection, maintenance preserve. and repair, under the provisions of section 20.

30. If the zamindar of any estate shall give in a list of Collector t tenures, as referred to in section 25, with an application to the tween sam Collector to apportion between his estate and the tenures the amount which has been apportioned as payable in respect of his holders. estate as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the zamindar and the tenure-holders, to serve notices on the said tenureholders in the manner provided in section 25, and to make a final apportionment among the said zamindar and tenureholders in the manner provided in sections 26 and 27; and the provisions of section 28 shall be applicable to such tenureholders:

Provided that no separate notice shall be served under this No separate section in respect of the provisional or final apportionment of pet of ap the sum payable in respect of any tenure, if such sum beliess portionment than two rupees; but in respect of all such sums it shall be than two sufficient to publish a list showing the sums apportioned as rapeos. payable.

Such list shall be published by being posted at the office of the sub-divisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

31. Notwithstanding anything in this Part contained, summer whenever the Collector may consider that he has sufficient between information (whether derived from papers compiled for the tangent tangents). purposes of the road-cess, from inquiries made in the course of hard-

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriesa and Assam Laws Act, 1912 (7 of 1912), s. 3, Sch. D, items 1 and 2, in Vol. I of this Code.

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(Part IV.—Of the Apportionment and Recovery of Expenses.—Sec. 32, 33.)

proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the zamindars of, and the holders of, tenures in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the zamindar to give in any list of tenures as provided in clause (e) of section 25, proceed to make a provisional apportionment between the zamindars and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

Notice to samindar when provisional apportionment made summarily.

32. Whenever any provisional apportionment of the sum payable between the *zamindars* and the tenure-holders may have been made summarily, as provided in the last preceding section,

the notice to be served on the zamindar under section 25 shall inform the zamindar, in addition to the particulars specified in clauses (a), (b), (c) and (d) of the said section, and instead of those specified in clauses (e) and (f),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate; and

that the Collector has made a provisional apportionment of the said sum between the *zamindar* and tenure-holders according to a list which shall be annexed to the said notice;

and shall warn him-

that if he fails to prefer any objection to such provisional apportionment on or before the date specified, he will be deemed to have given up all right to prefer any such objection at any future time; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit:

Provided that the sum finally made payable by the *zamindar* shall not exceed the sum apportioned upon him in the said provisional apportionment between the *zamindars* and the tenure-holders.

Protettpre on provisional apportionment. 33. As soon as a provisional apportionment between the samindar and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the samindar under section 30.

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(Part IV .- Of the Apportionment and Recovery of Expenses .-Secs. 34-37.)

34. In apportioning the amount among the z mindar and appoints the tenure-holders the Cellector shall first deduct such sum as an he shall consider to be fairly payable by the zamindar in respect of lands not included in any tenure, and in respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures he shall take nto consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situtated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundarymark.

So soon as the final apportionment among tenures- Notice of 35. holders under section 30 shall be completed, the Collector shall in respect of cause to be issued notices to each of the said tenure-holders tenures. stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six per centum from the date on which the zamindar paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the zamindar of the estate of which the tenure is a part, within one month of the date of the

Provided that no separate notice shall be served under this no separate section on any tenure-holder who is required to pay a sum of tenure-holder. less than two rupees as his share of the expenses apportioned required under this Act; but in respect of such sums it shall be two rupees sufficient to publish a list in the manner prescribed by section 30, and no costs incurred in respect of the publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two rupees.

36. Notwithstanding anything contained in section 35, the Collector Collector shall not issue the notices therein mentioned to the notices to tenure-holders until the zamindars concerned shall have tenure-holders. deposited with the Collector the full amount of the costs of dars have serving all the notices, and of publishing the lists as required deposited costs. by that section.

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and Apportion 35 shall be applicable, as far as possible, to every case in which ment bety any tenure-holder who has been made liable for the payment and ho of any share of expenses under this Act may apply to the subordina Collector to apportion the amount for which he has been made. liable between himself and the holders of subordinate tenures

direct from himself;

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a

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(Part IV.—Of the Apportionment and Recovery of Expenses.— Part V.—Boundary-disputes.—Secs. 38-43.)

summary way between a zamindar and the tenure-holders on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure.

Provided always that no such apportionment shall be made in respect of raiyats who have a right of occupancy only, and whose rent is not fixed in perpetuity.

Recovery of sums payable to samindar or tenureholder. **38.** Every *zamindar* or tenure-holder to whom any sum is payable under the preceding sections may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrears of rent in respect of the tenure for which the sum is due.

Recovery of sums expended by Government 39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November 1874, in erecting boundary-marks.

PART V.

BOUNDARY-DISPUTES.

Procedure in case of disputes as to boundary.

40. If it shall come to the notice of the Collector in the course of a survey under this Act, that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such inquiry as he may deem necessary, may determine such boundary as hereinafter provided.

- Mode of determining boundary. 41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks:

Force of Collector's order. and the order of the Collector under this section shall, until it be reversed or modified by competent authority, have the force of an order of any Civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector.

Power of Collector to take possession at land in dispute. 42. If, after holding the necessary inquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the inquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land.

Power to refer to arbitration.

43. Whenever the Collector thinks it necessary to decide a dispute as to any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration.

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(Part V.—Boundary disputes.—Secs. 44, 45.)

The procedure laid down in Chapter VI of Act 8 of 18591 (the Code of Civil Procedure) shall, so far as may be practicable, be applicable to disputes so referred to arbitration.

44. If the boundary regarding which the dispute exists as Relaying determined by any Court of competent jurisdiction, or shall have been laid down and shown on a man in the court. have been laid down and shown on a map in the course of any by revenue. previous revenue-survey or settlement, and no objection to the MITTER. boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection;

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the Government may be affected, the Collector

shall,

and whenever the dispute relates to, any other boundary,

the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shown on the map, and cause such boundary to be shown on the survey-map, with an explanatory note to the same:

Provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party, and shall be in addition to the determination and record of the boundary according to actual

possession required by section 41.

Nothing contained in this section shall be held to prohibit collector may the Collector from deviating from a boundary as held by actual deviate from boundary if possession or as shown on a former map, and laying down a parties agree new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shown on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary.

The reason for every such deviation shall be recorded in the

Collector's proceedings.

45. If it shall come to the notice of the Collector at any Power of time, or in any manner, that a doubt or dispute exists in respect Collector in to any boundary—

(a) which has at any time been determined by a competent determined become to boundary determined by a competent determine Court: or

(b) which has been laid down and shown on a map, in survey. the course of a previous revenue-survey or settlement. or other proceeding of a revenue-officer for any special purpose, and against which no objection has

¹ Act 8 of 1869 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference abould now be taken to be made tops. 89 of, and Sch. II to, the lighter Code—see s. 158 thereof, in General Acts, 1904-09, Bd. 1909, p. 184.

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(Part V.—Boundary-disputes.—Part VI.—Miscellaneous.—Secs. 46-48.)

been preferred to any authority competent to decide upon such objection; or

(c) which has been laid down by survey under this Act,—
the Collector may, if he thinks it desirable for any reason
that the boundary so determined or laid down shall be relaid,
proceed to relay the boundary in the manner prescribed in
section 44 of this Act.

and for the purpose of so relaying the boundary he may make any inquiries and surveys which may be necessary, and such inquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries and surveys under that section.

In certain cases Collector may cause marks to be erected.

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final.

and whenever a boundary which has been supplied by the survey officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final.

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section and to the apportionment of the cost thereof.

PART VI.

MISCELLANEOUS.

Joint
saminaars
subject to
every liability
imposed on
single
samindars.

47. Whenever any estate or tenure is held jointly by two or more zamindars or tenure-holders, all such zamindars and tenure-holders shall be jointly and severally liable in respect of every liability imposed on zamindars or tenure-holder respectively by this Act,

and any shareholder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Service of notice.

- 48. Every notice in and by this Act required to be served on any person may be served—
 - (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the

of 1875.]

(Part VI.-Miscellaneous.-Secs. 49-51.)

same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed; or

(2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to

reside; or

(3) by posting a copy of the notice at any mál-cutcherry of the estate or tenure of the person to whom the notice is directed; or if no such mal-cutcherry be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such

49. No proceedings under this Act shall be affected by rea- No proceed son of any mistake in the name of any person thereby rendered ings under Act liable to pay any sum of money or in the described by liable to pay any sum of money, or in the description of any mistake or estate or tenure or land in respect of which he is rendered liable tion. to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on any zamindar whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

50. For the purpose of any inquiry under this Act the Power of Collector shall, in addition to every power conferred specially enforce by this Act, have power to summon and enforce the attendance attendance of of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Proce-

51. If any person shall fail to comply with a requisition Daily fine for contained in any special notice served under section 7 of this comply with Act, or in any notice served for the purpose of any inquiry requisition in under Part V of this Act, within the time specified in such under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees, and such fine shall be payable daily until the requisition is complied with; and the

¹Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1852. This latter Act has been repealed and re-enacted by the Code of Civil Procedure, 1908 (6 of 1908), and this reference should now be taken to be made to latter Code—see a. 186 thereof, in General Acts, 1904-09, Ed. 1909, p. 284.

(Part VI.-Miscellaneous.-Secs. 52-57.)

Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

52. Any person, being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred rupees, to be imposed by order of the Collector.

53. Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code¹) which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred rupees, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged.

54. The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realized, to any person who may have given information leading to the imposition of the fine.

55. A fine under sections 51, 52 and 53 may be levied, as far as may be practicable, in the manner provided in section 307 of the Code of Criminal Procedure?; but if no moveable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue.

any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants, of such of the conterminous lands and in such proportions, as to the Collector may seem fit.

57. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses

Penalty for not giving notice of injury to boundarymark.

Penalty for removing boundarymarks.

Collector may award portion of fine to informer.

Levy of fine.

when person removing boundarymark cannot be found, Collector may repair.

Every amount due deemed :

¹ Printed in General Acts, 1884-67, Ed. 1989, p. 354.
² Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898); and this reference should now be taken to be made to ss. 886, 387 and 889 of the latter Act—see s. 8 thereof, in General Acts, 1898-1908, Ed. 1909, p. 40.

of 1875.]

(Part V.— Miscellaneous.—Secs. 58-60.)

incurred or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to be a demand * * * 1.

58. Except as provided in sections 59 and 60, no appeal against shall lie as of right, against any order passed under this Act by order. any officer; but

the proceedings and orders of Assistant Superintendents Supervision of and of Deputy Collectors under this Act shall be subject to the proceedings. supervision and control of the Superintendent of Survey or Collector;

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the Commissioner of the Division; and

the proceedings and orders of all officers, to the supervision and control of the Board of Revenue:

Provided that the Government may order that, in the course of any survey under this Act, the functions of the Commismus restrict functions of sioner shall be restricted to the decision of appeals under Commissioner section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Board of Revenue? direct.

59. An appeal, if presented within one month of the date Appeal of the order appealed against, shall lie to the Collector or orders of orders of Superintendent of Survey against every order of a Deputy Assistant Superinten-Collector or of an Assistant Superintendent—

dent or

- (a) determining under section 8 the amount to be paid as Collector. the price of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as . compensation;
- (c) deciding a boundary-dispute;
- (d) imposing a fine under this Act.
- 60. An appeal if presented within one month of the date of Appeal the order appealed against, shall lie to the Commissioner of the spinst certain orders of the control of the spinst certain orders of the control of the spinst certain orders of the control of th Division against every order of the Collector or Superintendent Collector or of Survey-

Superintend-ent of Survey

- (a) determining under section 8 the amount to be paid as value of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) determining a disputed boundary;
- (d) imposing a fine of more than fifty rupees on any

¹ The words and figures "under section 2 of Bengal Act 7 of 1888 (as Act to make further provision for the recovery of arrears of land-reseaue and public demands recoverable as arrears of land-reseaue), and shall be leviable as such", which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted. As to the recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1918), s. 8 (6) and Sch. I, in Vol. III of this Code

As to the application of a 57 of the present Act, see also a 20, aute.

As to the present constitution and powers of the Board of Revenue, see now-the Bangal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

[Ben. Act 5 of 1875,]

(Part V.-Miscellaneous.-Secs. 61-63.)

Provided that the order appealed against under clauses (a), (b) and (c) shall not have been passed by the Collector or Super-intendent of Survey on an appeal preferred against the order of a subordinate officer.

61. The Commissioner, Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector. Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

63. With the sanction of the Lieutenant-Governor the Board of Revenue may lay down rules, not being inconsistent with this Act,—

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All inquiries ordered to be made for the collection of information under such rules shall be deemed to be inquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries under that section.

Board of Revenue may lay down rules with sanction of Lieutenant-Governor.

Orders as to

costs on ap-

No suit to be brought un-

less appeal first preferred.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriasa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1918).

BENGAL ACT 1 OF 1876

(THE BENGAL MURAMMADAN MARRIAGES AND DIVORCES REGISTRATION Аст. 1876).

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SCHEDULE	Form	A,	Book	
19	11	В,	"	II.
		U.		III.

BENGAL ACT 1 OF 1876

(THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES REGISTRATION ACT, 1876).1

(19th January, 1876.)

An Act to provide for the voluntary registration of Muhammadan Marriages and Divorces.

Whereas it is expedient to provide for the voluntary Prosmble. registration of marriages and divorces among Muhammadans; It is enacted as follows:--

1. This Act shall commence and take effect in those Local extent, districts in the provinces subject to the Lieutenant-Governor of Bengal to which the said Lieutenant-Governor's shall extend it by an order published in the Calcutta Gazette; and thereupon this Act shall commence and take effect in the districts named in such order, on the day which shall be in such order provided for the commencement thereof.

2. In this Act, unless there be something repugnant in Interpretathe subject or context,-

"Muhammadan Registrar" means any person who is duly "Muhammadan Registrar" means any person who is duly "Muhammadan authorized under this Act to register marriages and divorces:

"Inspector-General of Registration" and "Registrar" "Inspector-General of Registration and "Registrar" "Inspector-General of Registration and appointed under the Indian Registration Act, 1871. For other law for the "Registrar." time being in force for the registration of documents:

"district" means a district formed under the provisions of "District." the Indian Registration Act, 1871:5

"parda-nashin" means a woman who, according to the "Parda-nashin" custom of the country, might reasonably object to appear in a public office.

¹ Short Title.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Bch. I—ser Vol. I of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, Bch. II.

Act 10 of 1914, Sch. II.

LEHISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Cazette, 1878, Pt. IV, p. 1523; and for Proceedings in Conneil, see ibid, 1878, Supplement, pp. 1, 55, 119, 175, 407, 437 and 1858.

LOUAL EXTENT—This Act extends only to districts notified under s. 1. For a list of districts so notified, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

RULES.—For rules made under this Act, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

This includes the present Presidency of Fore Williams.

Vol. I, Pf. VI.

This includes the present Presidency of Fort William in Bengal and other territory.

This includes the present Presidency of Fort William in Bengal—see the the Bengal, Bihar and Orissa and Assam La ws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

For a list of orders made under section 1 for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Miles and Orders, 1912, Vol. 1, Pt. VI.

Act 8 of 1871 was repeated and re-enacted by Act 8 of 1877, which again has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1904-1909, Ed. 1909, μ. 660)—see the General Clauses Act, 1897 (10 of 1887), s. 8, in General Acts, 1887-97, Ed. 1900, μ. 578.

(Secs. 3-8.)

Lientenante Governor may to register.

3. It shall be lawful for the Lieutenant-Governor' to grant a license to any person, being a Muhammadan, authorizing him to register Muhammadan marriages and divorces which have been effected within certain specified limits, on application being made to him for such registration; and in like manner it shall be lawful for the said Lieutenant-Governor to revoke or suspend such license:

Provided that no more than two persons shall be licensed to exercise the said functions within the same limits; and provided further that, when two persons are so licensed to act within the same limits, the one shall be a member of the

Sunni, and the other of the Shia, sect.

Muhammadan Registrars to use seals.

4. Every Muhammadan Registrar shall use a scal bearing the following inscription in the Persian character and language: "The seal of the Muhammadan Registrar of

5. The Lieutenant-Governor shall supply for the office Government to provide scal and books. of every Muhammadan Registrar the scal and the books necessary for the purposes of this Act.

> The pages of such books shall be consecutively numbered in . print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

> 6. Every Muhammadan Registrar shall keep up the follow-

keep registers. ing register-books :-Book I.—Register of marriages, in the Form A contained in $^\circ$

the Schedule to this Act.

Book II.—Register of divorces other than those of the kind known as Khula, in the Form B contained in the Schedule to this Act.

Book III.—Register of divorces of the kind known as Khula, in the Form C contained in the Schedule to this Act.

Entries to be

Applications.

by whom to be made.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

8. Every application for registration under this Act shall be made to the Muhammadan Registrar orally as follows:-

if the application be for the registration of a marriage—

by the parties to the marriage jointly: provided that if the man, or the woman, or both, be minors, application shall be made on their behalf by their respective lawful guardians: and provided further that, if the woman be a parda-nashin, such application may be made on her behalf by her duly authorized vakil.

if the application be for registration of a divorce other than of the kind known as Khula-

by the man who has effected the divorce;

Muhammadan

Registrar to

numbered.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. B, items 1 and 2, in Vol. I of this Code..

of 1876.] · .

(Secs. 9-11.)

if the application be for the registration of a divorce of the kind known as Khula-

by the parties to the divorce jointly: provided that, if the woman be a parda-nashin, such application may be made on her behalf by her duly authorized vakil.

9. On application being made to a Muhammadan Registrar Daties of for registration under this Act of a marriage or divorce within none month of the marriage or divorce being effected, and not application. otherwise, and on payment to him of a fee of one rupee, the Muhammadan Registrar shall—

- (a) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage or divorce has been effected:
- (c) in the case of any person appearing as representative of the man or woman (whether he appear as guardian or cakil), satisfy himself of the right of such person to appear.

If the Muhammadan Registrar be satisfied on the above points, and not otherwise, he shall make an entry of the marriage or divorce in the proper register:

Provided that no such entry shall be made otherwise than in the presence of every person who, by section 11 of this Act, is required to sign such entry.

10. Nothing in the preceding section shall be held to Muhammadan prohibit a Muhammadan Registrar from receiving a gratuity Registrar may in excess of the prescribed fee of one rupee, when such gratuity tuity. is voluntarily tendered.

11. Every entry in a register kept under this Act shall Entries by signed as follows: be signed as follows:-

- if the entry be of a marriage in a register in the Form $oldsymbol{A}$ contained in the Schedule to this Act .-
 - (1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively: provided that, if the woman be a parda-nashin, the entry may be signed on her behalf by her duly authorized rakil.
 - (2) by two witnesses who were present at the marriageceremony:
 - (3) in cases in which the woman is represented by a vakil -by two witnesses to the fact of the rakil having been duly authorized to represent her;
 - (4) by the Muhammadan Registrar;

(Secs. 12-15.)

if the entry be of a divorce other than the kind known as Khula in a register in the Form B contained in the Schedule to this Act.—

(1) by the man who has effected the divorce;

(2) by the witness who identifies the man who has effected the divorce;

- (3) if the man be of the Shia sect—by two witnesses to the divorce being effected;
- (4) by the Muhammadan Registrar;

if the entry be of a divorce of the kind known as Khula in a register in the Form C contained in the Schedule to this Act.—

(1) by the parties to the *Khula*: provided that, if the woman be a *parda-nashin*, the entry may be signed on her behalf by her duly authorized *vahil*;

(2) by the person who identifies the man;

(3) by the person who identifies the woman;

(4) if the application for registration has been made by a vakil on behalf of the woman—by two witnesses to the fact of the vakil having been duly authorized to represent her;

(5) if the man be of the *Shia* sect—by two witnesses to the divorce being effected;

(6) by the Muhammadan Registrar.

Copies of entry to be given to parties. 12. On completion of the registration of any marriage or divorce, the Muhammadan Registrar shall deliver to each of the applicants for registration an attested copy of the entry; and for such copy no charge shall be made.

Index to be kept. 13. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register; and every entry in such index shall be made, so far as practicable, immediately after the Muhammadan Registrar has made an entry in any such register.

Particulars to be shown in index. 14. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage or divorce, and the date of registration.

It shall also contain such other particulars, and shall be prepared in such form, as the Lieutenant-Governor may

direct.

15. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Muhammadan Registrar or of the Registrar of the district, and the copies of entries in such index. which are filled in the office of the Registrar of the district under the provisions of section 22 of

inspected and copies of entries in registers taken.

¹ No g the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Asam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, items I and 2, in Vol. I of this Code.

of 1676.7

(Secs. 16-21.)

this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the Registrar of the district under section 22 of this Act, shall be given to all persons applying for such copies.

Such copies shall be signed and sealed by the Registrar of the district or by the Muhammadan Registrar, as the case may

16. Every Registrar of a district and every Muhammadan Foca for Registrar shall, for the purposes of this Act, be entitled to levy copies. the following fees:-

for every search or permission to search in any index or

register under his charge-four annas:

for every certified copy of any entry in a register other than the first copy referred to in section 12 of this Act—one rupee.

17. Every Muhammadan Registrar shall perform the duties of his office under the superintendence and control of the Bogistrar to be subject to Registrar in whose district the office of such Muhammadan control of District Registrar is situate.

In the town of Calcutta every Muhammadan Registrar shall perform the duties of his office under the superintendence and

control of the Inspector-General of Registration.

Every Registrar, and in the town of Calcutta the Inspector-General of Registration, shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Muhammadan Registrar subordinate to him.

18. The Inspector-General of Registration shall exercise a Inspector general superintendence over officers of all Muhammadan General to Registrars, and shall have power from time to time to frame to exercise rules consistent with this Act, for the guidance of the said intendence. Muhammadan Registrars and the regulation of their offices generally.

19. All rules framed in accordance with the last preceding Rules to be section shall be submitted to the Lieutenant-Governor for Lieutenantapproval, and after they have been approved they shall be Governor and published in the official Gazette, and shall then have the same Gazette, force as if they were inserted in this Act.

20. Every Muhammadan Registrar refusing to register a Refusal to marriage or divorce shall make an order of refusal, and record recorded. his reasons for such order in a book to be kept for that purpose.

21. An appeal shall lie against an order of a Muhammadan Appeal Registrar refusing to register a marriage or divorce, to the to register. Registrar to whom such Muhammadan Registrar is subordinate; if presented to such Registrar within 20 days from the date of

ningt refusal

¹ For rules made under sections 18 and 24, for Bengal as constituted on the 31st March, 1912, set the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI

⁹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Ogissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and 8ch. D, items 1 and 2, in Vol. I of this Code.

(Secs. 22-26.)

the order, and the Registrar may reverse or alter such order; and the order passed by the Registrar on appeal shall be final.

Copies of entries to be sent monthly to Registrar

22. Every Muhammadan Registrar shall, at the expiration of every month send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 13 and 14 of this Act. to the Registrar of of the district within which such Muhammadan Registrar has been authorized to act, and the Registrar, on receiving such copies, shall file them in his office.

be given up.

- 23. Every Muhammadan Registrar shall keep safely each register until the same shall be filled, and shall then or earlier if he shall leave the district or cease to hold a license, make over the same to the Registrar of the district for safe custody, or to such other person as the Registrar may direct.
- 24. The Lieutenant-Governor may from time to time prescribe such rules? as he thinks fit, provided that such rules be not inconsistent with any provision of this Act,-
 - (a) for determining the qualifications to be required from persons to whom licenses under section 3 of this Act may be granted;
 - (b) for regulating the attendance of Muhammadan Registrars at the celebration of marriages, and their remuneration for such attendance ;
 - (c) for regulating the grant of copies by Registrars and Muhammadan Registrars:
 - (d) for regulating the payment by the Muhammadan Registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by the Government:
 - (*) for regulating the application of the fees levied by Registrars of districts and Muhammadan Registrars under this Act; and
 - (f) for regulating such other matters as appear to the Lieutenant-Governor | necessary to effect the purposes of this Act.

The Lieutenant-Governor may from time to time cancel or alter any such rules.

Mnhammadan Registrar a public officer.

Baving clause.

- 25. Every Muhammadan Registrar shall be, and be deemed to be, a public officer, and his duties under this Act shall be deemed to be public duties.
 - 26. Nothing in this Act contained shall be construed to—
 - (a) render invalid, merely by reason of its not having been registered, any Muhammadan marriage or divorce which would otherwise be valid:

Registers to

Lientenant. Governor may proscribe

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, itema 1 and 2, in Vol. I of this Cade.

*Fagrades under sections 18 and 24, for Bengal as constituted on the 51st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1874:

(Schedule.)

 (b) render valid, by reason of its having been registered any Muhammadan marriage or divorce which would otherwise be invalid;

(c) authorize the attendance of any Muhammadan Registrar at the celebration of a marriage, except at the request of all the parties concerned;

 (d) affect the religion or religious rites and usages of any of His Majesty's subjects in India;

(e) prevent any person, who is unable to write, from putting his mark instead of the signature required by this Act.

SCHEDULE.

(See sections 6 and 11.)

FORM A. BOOK J.

Register of Marriages (as prescribed by section 6 of the Act for the voluntary registration of Muhammadan marriages and Divorces).

1. Consecutive number.

2. Name of the bridegroom and that of his father, with their respective residences.

3. Name of the bride and that of her father, with their

respective residences.

4. Whether the bride is a spinster, a widow or divorced by a former husband, and whether she is adult or otherwise.

5. Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.

6. * Name of the guardian of the bride (if she be a minor) and that of his father, with specification of his residence, and

the relationship in which he stands to the bride.

7. † Name of the bride's vakil and of his father, and their residences, with specification of the relationship in which the vakil stands to the bride.

8. † Names of the witnesses to the due authorization of the bride's *vakil*, with names of their fathers and residences, and specification of the relationship in which they stand to the bride.

^{*} These columns will be blank if the bride and bridegroom, respectively, are not represented by guardians.

† These columns will be blank when the bride is not represented by a vakil.

(Schedule.)

- 9. Date on which the marriage was contracted,-to be given according to the English style and according to the era current in the district.
- 10. Amount of dower.11. How much of the dower is mu'ajjal (prompt) and how much mu'wajjal (deferred).
- . 12. Whether any portion of the dower was paid at the moment. If so, how much.
- 13. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.
 - 14. Special conditions, if any.
- 15. Names of village or town, police-jurisdiction and district in which the marriage took place.
- 16. Name of the person in whose house the marriageceremony took place, and that of his father.
- 17. Date of registration,-to be given according to the English style.

FORM B. BOOK II.

Register of Dirorces, other than those of the kind known as Khula (prescribed by section 6 of the Act for the roluntary registration of Muhammadan Marriages and Dirorces).

- Consecutive number.
- 2. Names of the husband and of his father, and their residences.
- 3. Names of the wife and of her father, and their residences.
- 4. Date of divorce-according to the English style and according to the era current in the district.
 - 5. Description of divorce.
 - 6. Manner in which the divorce was effected.
- 7. Names of the village or town, police-jurisdiction and district in which the divorce took place.
- 8. Name of the party in whose house the divorce took place, and of his father.
- 9. Names of witnesses to the divorce, if any, the names of their fathers, and their respective residences.
- 10. Name of party identifying the husband before the Muhammadan Registrar and that of his father, and their residences.
- 11. Date of registration.—to be given according to the Euglish style.

of 1876.]

(Schedule.)

FORM C. BOOK III.

Register of Divorces of the kind known as Khula (prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

- 1. Consecutive number.
- 2. Name of the husband and that of his father, and their residences.
- 3. Name of the wife and that of her father, and their residences.
- 4. Date of Khula—according to the English style and according to the era current in the district.
 - 5. Amount of dower.
- Whether Khula was acknowledged by the wife in person before the Muhammadan Registrar.
- 7. If so, name of the party identifying her before the Muhammadan Registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.
- 8. * If the *Khulu* be acknowledged before the Muhammadan Registrar by the wife's *vakil*, his name and that of his father and their residences, with specification of the relationship which the *vakil* bears to the wife, if any.
- 9. Names of the two witnesses to the due authorization of the wife's rakil, and those of their fathers, with their residences.
- 10. Name of village or town, police-jurisdiction and district where the *Khula* took place.
- 11. Name of the person in whose house the Khulu took place, and that of his father.
- 12. Names of the witnesses, if any, to the divorce being effected, the names of their fathers and their residences.
- 13. Name of the person identifying the husband, and that of his father and their residences.
 - 14. Date of registration,—to be given in the English style.

^{*} This column will be blank if the woman is not represented by a vakil

BENGAL ACT 2 of 1876

[THE CALCUTTA POLICE (AMENDMENT) ACT, 1876].1

(9th February, 1876.)

Title, preamble, ss. 1 (local extent, commencement), 2 (repeal), 3 to 9 (amendment and extension of Act 11 of 1849), 10, 11 (amendment and extension of Act 21 of 1856). Rep. by the Bengal Excise and Licensing Act. 1878 (Ben. Act 7 of 1878).

12. Act 4 (B. C.) of 1866 shall be read as if for section 40 Amendment of section 40 the said Act the following sections were substituted:—

40 [Printed aute p. 101]

41 Amendment of section 40 of Ben. Act 4 of 1866. of the said Act the following sections were substituted:-

40. [Printed ante, p. 101].

13 to 15. (Unlicensed cultivation of plants producing intoxicating drugs; imprisonment in de, ault of payment of fine; power to assign granting of licenses to municipality). Rep. by the Bengal Excise and Licensing Act. 1878 (Ben. Act 7 of 1878).

SCHEDULE.

Enactments repealed.

Rep. by the Benyal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878).

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1903—side Act 10 of 1914, Sch. 11.

LIGHT TITLE.—This short title was given by the Repealing and Amending Act, 1903—side Act 10 of 1914, Sch. 11.

LIGHT TITLE.—This short title was given by known as the Amending Act, 1903—side Act 10 of 1904—side Act 10 of 1021.
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BENGAL ACT 3 OF 1876

(THE BENGAL IRRIGATION ACT, 1876).

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BENGAL ACT 3 OF 1876

(THE BENGAL IRRIGATION ACT, 1876).1

(29th March, 1876.)

An Act to provide for irrigation in the Provinces subject to the Lieutenant-Governor of Bengal, "

Whereas it is necessary to make provision for the constructional Preamble. tion, maintenance and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the provinces subject to the Lieutenant-Governor of Bengal; It is hereby enacted:-

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Irrigation Act, 1876; Short title. It shall take effect in those districts in the provinces sub- Local extent. ject to the Lieutenant-Governor of Bengal 2 to which the said Lieutenant-Governor shall extend it by an order published Commoncein the Calcutta Gazette; and shall commence on the day which shall be in such order provided for the commencement thereof.

- 2. (Repeal of Acts). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903 vide Act 10 of 1914, Sch. 11.
- 3. In this Act, unless there be something repugnant in the Interpretation-clause. subject or context,-

(1) "canal" includes—

" Canal."

(11) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government

Into all Barrie.—This act takes effect in Bengal districts to which it is extended by order under s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code.

Exemption from the Act, are exemited from stamp duty—see the Indian Stamp Act, 1899 (20 1899), Sch. 1, Arts. 15, 57, in General Acts, 1898-1903, Ed. 1909, pp. 416, 432.

Exclusion of orders Acts.—Nothing in the Bengal Embankment Act, 1882 (Ben. Act 2 of 1883), applies to any embankment, land or water-course which is under the operation of the present Act—see Ben. Act 2 of 1882, s. 91, pant, p. 661.

Nothing in the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), applies to any canal or food-embantment as defined in the present Act—see s. 4, post, p. 315.

The problem of the present Presidency of Fort William in Bengal and other territory.

Now 126 Governor in Council of Fort William in Bengal and other territory.

Now 126 Governor in Council of Fort William in Bengal—see the Bengal. Bihar and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. 1 of this Code.

4 For a list of orders made under section 1 for Bengal, as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

LEGIBLATIVE PAPERS —For Statement of Objects and Rensons, see Calcutta Gazette, 1876 Pt. IV, p. 76; for Report of Select Committee, see ibid, p. 380; and for Proceedings in Council see ibid, 1875, Supplement, pp. 8, 412, 1497, ibid, 1876, Supplement, p. 31.
LOCAL EXEKET.—This Act takes effect in Bengal districts to which it is extended by order

(Part I.-Preliminary.-Sec. 3.)

for the supply or storage of water, or which may hereafter be so constructed, maintained or controlled:

 (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(c) all village-channels as defined in clause (2) of this section:

(d) all drainage-works as defined in clause (3) of this section:

- (e) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Licutenant-Governor¹ has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal:
- (f) all lands on the banks of any canal as defined in articles (a), (b), (c), (d) and (e) of this clause, which have been acquired by Government:

" Villagechannel." (2) "village channel" means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel:

"Drainage-

(3) "drainage-work" means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns:

"Flood-embankment." for the removal of sewage from towns:

(4) "flood-embankment" means any embankment constructed or maintained by the officers of Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be declared by the Lieutenant-Governor to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments:

"Collector."

(5) "Collector" means the head revenue-officer of a district, and includes any officer appointed by the Lieutenant-Governor to exercise all or any of the powers of a Collector under this Act:

" Court."

(6) "Court" means, in the Regulation Provinces, a principal Civil Court of original jurisdiction;

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Askan Laws Act, 1912 (7 of 1913), s. 3, and Sch. D, items I and 2, in Vol. I of this Code.

1076.]

(Part I.-Preliminary.-Part II.-Of the Application of Water for Public Purposes.—Secs. 4-6.)

and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division.

unless when the Lientenant-Governor has appointed (as he is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

(7) "canal officer" means an officer appointed under this "canal-Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned by

the Lieutenant-Governor!:

(8) "section" means a section of this Act:

(9) "owner" includes every person having a joint interest "Owner." in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having

such joint interest in the ownership. Ben Act 6 of 1878,

4. Nothing contained in the Bengal Embankment Act, 1873, Exemption shall apply to any canal or flood-embankment as defined in this Embankment

5. The Lieutenant-Governor may from time to time declare Power to by notification in the Calcutta Gazette, the officers by whom, appoint officers. and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

6. Whenever it appears expedient to the Lieutenant-Governor that the water of any river or stream flowing in a natural when water of any river or stream flowing in a natural when water or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water of any river or stream flowing in a natural water or stream flowing in a nat channel, or of any lake or other natural collection of still applied for water, should be applied or used by the Government for the public party of the public party o purpose of any existing or projected canal.

the Lieutenant-Governor may, by notification in the Calcutta Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

^a Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D. items 1 and 2, in Vol. I of this Code.

^a For a list of orders made under section 3 (7) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

^a So much of Ben. Act & of 1878 as is unrepeated is printed aste, p. 235.

^c For lists of notifications issued under section 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

^b For a list of notifications issued under section 6 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. L. Pt. VI.

(Part 11.—Of the Application of Water for Public Purposes.—Secs. 7-10.)

Powers of canal officer. 7. At any time after the day so named, any canal-officer acting under the orders of the Lieutenant-Governor in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation. 8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

Contents of notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

Power to require statements to name and intenests.

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Penalty for fallers to tempty. If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine.

^{*}New the Governor be against of East William in Bengal—see the Bengal, Bihar and Orissa and Aslam Laws Act, 1913 (7 of 1915) 8. 8, and Sch. D, items 1 and 2, in Vol. 1 of this Code.

of:1876.]

(Part II.—Of the Application of Water for Public Purposes.—

notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such. order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Every person required to make or deliver a statement Person under this section shall be deemed to be legally bound to do make so within the meaning of sections 175 and 1761 of the Indian legally bound Penal Code.

11. No compensation shall be awarded for any damage Damage for which comaused by-

(a) stoppage or diminution of percolation or floods;

(b) deterioration of climate or soil;

(c) stoppage of navigation, or of the means of rafting timber or watering cattle.

But compensation may be awarded in respect of any of the Matters in respect of any of the Matters in respect of which compensation ollowing matters:-

(d) stoppage or diminution of supply of water through any may be natural channel to any defined artificial channel, whether above or underground, in use at the date of the issue of the notification under section 6:

(e) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;

(f) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;

(g) damage done in respect of any right to a water-course or the use of any water to which any person is entitled und r the Indian Limitation Act, 1871, Part IV:

(h) any other substantial damage, not falling under any of the above clauses (a), (b) or (c), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

Notwithstanding anything contained in clause (c), compensation may be awarded in respect of the loss of any tolls which

pensation

9 of 1871.

of 1860.

¹ Printed in the General Acts, 1884-67, Ed. 1909, pp. 291, 292.

*Agt 9.07 1871 was repealed and re-enacted by Act 15 of 1877, which again has been repealed and re-enacted by the Indian Limitation Act, 1906 (9 of 1909), and this reference should now be construed as a reference to Part IV of the Ester Act (in General Acts, 1909, 98. dd, 1909, 98. dd)—see the General Clauses Act, 1897 (10 of 1897) = 2 in General Acts, 1897 (10 of 1897) = 2 in General Acts, 1897 (10 of 1897)

(Part II .- Of the Application of Water for Public Purposes .-Secs. 12-14.)

were lawfully levied on any river or channel at the time of the issue of the notification mentioned in section 6.

Diminution in market

In determining the amount of compensation under this section, regard shall be had to the diminution in the marketvalue, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (d), (e) or (f) of this section in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under

the Indian Limitation Act. 1871. Part IV.

Compension for loss of drinkingwater.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Lieutenant-Governor under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

Limitation of claims.

No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of six months from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Inquiry into claim and tender of compensation.

14. On the day fixed in the notice mentioned in section 9. the Collector shall proceed to inquire summarily into the claim and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice given under section 9.

For the purpose of such inquiry the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, as far as may be, in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.

¹Act 9 of 1871 was repealed and re-enacted by Act 15 of 1877, which again has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to Part IV of the latter Act (in General Acts, 1904-09, Ed. 1909, p. 484)—see the General Chauses Act, 1897 (10 of 1897), a. 8, in General Acts 1887-07, Ed. 1909, p. 579.

²Now the Governor in Conneil of Fort William in Bengal,—see the Bengal, Bihar and Orleas and Assam Laws Act, 1872 (7 of 1912), a. 8, and Sch. D. items 1 and 2, in Vol. 1 of this Code.

³Act 8 of 1885 was repealed and re-enacted by Act, 10 of 1877, which was repealed and meanacted by Act 1807 1807. The 1897 at has again been repealed and re-enacted by the Cade of Civil Procedure, 1808; (4 of 1802 and 1802 and 1803 and 1803 and 1804 and 1804 and 1804 and 1804 and 1805 and 1

of 1870.

(Part II.—Of the Application of Water for Public Purposes.— Secs. 15-19.)

15. The Collector may, if no claimant attends pursuant to Postponeme the notice, or if for any other cause he thinks fit, from time to time, postpone the inquiry to a day to be fixed by him.

16. If the Collector and the persons interested agree as to Award in or the amount of compensation to be allowed, the Collector shall tion

make an award under his hand for the same.

Such award shall be filed in the Collector's office, and shall Award to be be conclusive, as between the Collector and the persons interest- be evidence, ed, of the value of the said property and the amount of compensation allowed for the same.

17. If the Collector and the persons interested do not agree Collector to as to the amount of compensation to be allowed, or if upon the to Court will said inquiry any question respecting the title to the property compensa of which the value has been diminished, or any right thereto, or interest therein, arises between or among two or more persons making conflicting claims in respect thereof, the Collector shall refer the matter to the determination of the Court in manner hereinafter provided.

18. If, when the Collector proceeds to make the inquiry as Collector to mentioned in sections 14 and 15, no claimant attends, or if record particulars in any person whom the Collector has reason to think interested certain cases. does not attend, the Collector shall hold a proceeding and record the following particulars:-

- (a) the nature and extent of the property of which the value has been diminished and in respect of which compensation is claimed, and the character and extent of the damage done;
- (b) the names of the persons whom he has reason to think interested in such property;
- (c) the amount fixed by him as compensation; and,
- (d) the grounds on which such amount was determined;

and shall place the amount so fixed by him in deposit, there And to place to be held on account of the persons interested, and shall issue amount of compensation a notice to the persons believed to be interested, informing them in a that the said amount has been deposited as required by this section, and that, should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein. the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

19. Any person on whom notice may be served under the Objections to same last preceding section, and any person interested in any compensation property in respect of which such notice has been issued, may, dated by within six weeks of the service of such notice, apply to the Court Collector. stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

[Ben. Act 3

(Part II.—()f the Application of Water for Public Purposes.— Secs. 20-24).

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

Procedure in making references

20. In making reference under section 17 the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure on receipt of reference under section 17.

21. On receipt of a reference under section 17 the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870:

Provided that, instead of the last clause of the said section 26, the following shall be read:—"The provisions of this section and of section 11 of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Particulars of apportionment to be specified. 22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Disputes as to apportionnen 23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

All costs entailed by such a reference, and the proceedings of the Court thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

Determination of preportions.

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

¹ Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 α 1894), and this reference bould now be construed as a reference to is. 30 to 22 and 25 to 28 of the latter Act—see s. 2 (2) hereof, in General Acts, 1887-97, Ed. 1909, p. 364.

(Part H.—Of the Application of Water for Public Purposes Secs. 25-29.) .

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Proced-

ure 1 for regular appeals in suits. 8 of 1859.

25. Payment of the compensation shall be made by the Payment of Collector in accordance with the award made by him under compensation, section 16; or the proceeding held by him under section 18, if no application be made to the Court as provided by section 19; or the award made by the Court or the decision of the Judge under section 21; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding further claim section, shall be deemed to be the full amount payable by the Government in respect of the claim dealt with therein; and the Government shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision; nor shall any such claim be made against the Government in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accordance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 21; and no suit shall be brought to set aside an

award or decision under this Act. 27. Nothing contained in the last preceding section shall Liability of affect the liability of any person who may receive the whole receiving or any part of any compensation awarded under this Act to compensation at affected,

pay the same to the person lawfully entitled thereto.

28. Every tenant holding under an unexpired lease, or Abstement of having a right of occupancy, who is in occupation of any land rent on interruption of at the time when any stoppage or diminution of the supply in water-supply. respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding:

Provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction

in the value of his holding.

29. If a water-supply increasing the value of such holding Ephanoemen is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in watersupply. respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

¹ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has again been repealed and re-enacted by the Code of Civil Procedure, 1986 (5 of 1986), and this reference should now be take the particle of the latter Code-asses s. 158 thereof, in General Acts, 1904-1909, Ed. 1909, p. 184.

|Ben: Act 3

(Part II.—Of the Application of Water for Public Purposes.— Part III.—Of the Maintenance of Canals.—Secs. 30-33.)

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

Interest.

30. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same:

Collector may invest amount deposited or awarded in Government Securities.

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accured upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such suns.

No compensation in respect of prior works

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

notice

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

OF THE MAINTENANCE OF CANALS.

Entry for inquiry. 33. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal or with

of 1876.]

(Part III.—Of the Maintenance of Canals.—Secs. 34-37.)

the maintenance of an existing canal, or with a projected: flood-embankment, or with the maintenance of an existing flood-embankment any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such land as he may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870.1 to the effect that land in that locality is likely to be needed for a public purpose; and may set up and maintain water-gauges, and do all other things necessary for the prosecution of such inquiry and examination.

34. Such canal-officer or other person may also enter upon regero any land, building or village-channel on account of which any water-rate is chargeable for the purpose of inspecting or water-supply regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

35. In case of any accident being apprehended or happen-Power to ing to a canal or flood-embankment, any canal-officer, or any enter for person acting under his general or special orders in this behalf, to prevent accidents. may enter upon any lands adjacent to such canal or floodembankment, and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

36. When such canal-officer or person proposes, under the Notice to provisions of either of the three last preceding sections, to enter building, etc. into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the argency of the case may allow.

37. In every case of entry upon any land or building Compensation under section 7, section 33, section 34 or section 35, the canalofficer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

If such tender is not accepted, the canal-officer shall refer the mafter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canalofficer, requiring them to attend before him, on a date to be

² Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to s. 4 of the latter Act—see s. 3 (3) thereof, in General Acts, 1887-97. Ed. 1909, p. 364.

[Ben, Act 3

(Part III.—Of the Maintenance of Canals.—Part IV.—Of Drainage.—Secs. 38-40.)

fixed in the notice, for the purpose of making inquiry as to the amount of compensation.

Appeal from Collector's decision to Commissioner

38. After such inquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the Division:

Provided that such appeal be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector. or, if such appeal be preferred, the decision of the Commissioner shall be final and conclusive.

(iovernment to provide means of crossing canals and of drainage.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the Lieutenant-Governor1 thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Collector to certify to Government that means of canals and drainage nave been provided

On the completion of any canal or of any convenient section of any canal the Collector, after causing such inspection to be made as may be necessary, shall certify to the Government that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the above purposes is defective; and if, at any time after he shall have given such certificate, it shall be brought to his notice that the provision made as above has proved insufficient, the Collector shall cause inquiry to be made into the circumstances of the case, and, if the statement is established, shall report his opinion thereon for the consideration of the Lieutenant-Governor, and the Lieutenant-Governer shall cause such measures in reference thereto to be taken as he thinks proper.

PART IV.

OF DRAINAGE 2.

obstructions within certain limits.

40. Whenever it appears to the Lieutenant-Governor 1 Governor may that injury to the public health or public convenience, or to prohibit formation of, any canal, or to any land for which irrigation from a canal any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of

Now the Governor in Council of Fort William in Bengal —see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code.

*For further enactments as to drainage, see the Bengal Drainage Act, 1890 (Ben. Act 6 of 1880), post, p. 491, and the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895) and the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

of 1876.

(Part IV .- Of Drainage .- Secs. 41-44.)

any river, stream or natural drainage-course, the Lieutenant Governor may, by notification published in the Calcutta Gazette, prohibit, within limits to be defined in such notification, the formation of any such obstruct.on, or may, within such limits, order2 the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

41. The canal-officer or other person authorized by the Canal-officer Lieutenant-Governor in that behalf may, after such publica-notice to tion, issue an order to the person causing or having control person causing obsernations. over any such obstruction to remove or modify the same within a time to be fixed in the order.

42. If, within the time so fixed, such person does not Canal-officer comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to to be removed. whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand

43. Whenever it appears to the Lieutenant-Governor When that any drainage works are necessary for the public health, works or for the improvement or proper cultivation or irrigation of necessary, Lieutenant any lands in districts to which the provisions of the Bengal Governor Embankment Act, 1873, do not apply, or that protection from scheme to be floods or other accumulations of water, or from erosion by a draw river, is required for any lands.

the Lieutenant-Governor may cause a scheme for such works to be drawn up and carried into execution, and the persons authorized by the Lieutenant-Governor to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33, 34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by sections 36 and 37.

44. Whenever, in pursuance of a notification made under Disposal of section 40, any obstruction is removed or modified;

or whenever any drainage-work is carried out under the last preceding section.

all claims for compensation on account of any loss const quent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner

claims to compensation.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa an.]
 Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items I and 3, in Vol. I of this Code.
 For a list of notifications and orders issued under section 40 for Bengal as constituted on the 3ist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. N.
 The reference to Ben. Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1889 (Ben. Act 3 of 1918), is omitted. As to recovery of "demands," see now the Bengal Public Demande Recovery Act, 1918 (Ben. Act 3 of 1918), is 3 (6) and Sch. I, in Vol. III of this Code.
 So much of Ben. Act 6 of 1873 as is unrepealed is printed aute, p. 286.

(Part IV.—Of Drainage.—Part V.—Of Village-channels.— Secs. 45-49.)

provided in Part II; but no compensation shall be allowed for

any damage arising from increase of percolation.

Limitation of

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART V.

OF VILLAGE-CHANNELS.

Person ' defined 46. "Person" in this Part includes any number of persons acting jointly.

Register of village-chanels to be kept.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners; and shall register the names of the owners of every such private channel.

Extension or branch of village-channel to be registered.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village-channel; and so much of the length of any village-channel as I es within the limits of any one village or mauza shall be entered on the register as a separate village-channel.

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act:

Casal-officer may register as one villagechannel section including portions lying within two or safter villages.

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or mauzas, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Person may sequire existing willage-channel by agreement.

- 48. Any person may, with the consent of the canal-officer, acquire the property in an existing village-channel for the purpose of improving or maintaining it—
 - (a) by taking over any village-channel belonging to Government;
 - (b) by transfer of a village-channel from the owner thereof by private agreement.

Construction of new village channel.

49. Any person may, with the permission of a canalofficer, construct a new village-channel if he has obtained the

ef.1876.] .

(Part V.-Of Village-channels.-Secs. 50-52.)

consent of the owners and occupiers of the land required therefor.

50. Any person desiring the construction of a new village-by person dechannel, but being unable or unwilling to construct it under struction of a private arrangement with the owners and occupiers of the struction of the willage-by the struction of a new village-by the structi land affected, as mentioned in the last preceding section, may channel. apply in writing to the canal-officer stating-

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

51. If the canal-officer considers the construction of such Procedure when canalvillage-channel expedient, he may call upon the applicant to officer condeposit any part of the expense such officer may consider siders construction necessary,

and, upon such deposit being made, shall cause inquiry to be expedient. made into the most suitable alignment for the said villagechannel.

and shall mark out the land which, in his opinion, it will be

necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken that so much of such land as is situated within such village has been so marked out.

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

Such notification shall also call upon any person who Notice to per-wishes to be admitted a joint owner of such village-channel to son wishing to be joint make his application in that respect within thirty days of the owner. publication of such notification.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel constructed.

52. On receipt of copy of such notification, the Collector Collector to shall proceed to acquire such land under the provisions of the acquire land. Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

10 of 1870.

Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—sec s. 2 (3) thereof, in General Acts, 1887-97, Ed. 1909, p. 361.

(Part V.-Of Village-channels.-Secs. 53-57.)

Procedure after construction of villagechannel. **53.** On being put in possession of the land the canalofficer shall construct the required village-channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel.

On such notice being given, such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such village-channel to such applicant.

Canal-officer may direct transfer of villagechannel. 54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to prefer any objection to such transfer.

After hearing such objection, the canal-officer may order that such village-channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel:

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-

officer under section 56.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the

admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid—

as the costs of the proceedings; as compensation to the previous owners:

and the amount so determined shall be due by the transferce, or the person admitted to registry as a joint owner, as the case may be; and, on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually to the previous owners by the persons to whom the village-channel is transferred.

joint owner of existing villagechannel.

Person may

Canal-officer to fix sums payable on transfer or sequisition of joint ownership.

Canal-officer may fix rent for a villagechannel transferred.

af 1876,]

(Part V.-Of Village-channels.-Secs. 58-60.)

58. Every person-

(a) acquiring a village-channel as provided in section of village 48: or

- (i) constructing a village-channel as provided in section 49; or
- (c) receiving possession of a village-channel as provided in section 53; or
- (d) acquiring a village-channel by transfer as provided in section 54; or
- (e) being admitted to registration as joint owner in a village-channel as provided in section 55.

shall be deemed to be an owner of such village-channel.

59. Every owner of a village-channel shall be bound-

- (a) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels drains as a construct and maintain all works necessary for the owner passage across such village-channel of canals, village-channels drains as a construct and maintain all works necessary for the owner passage across such village-channels. village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;
- (b) to maintain such village-channel in a fit state of repair for the conveyance of water;
- (c) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as hereinafter prescribed :

and shall be entitled-

- (d) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the Lieutenant-Governor 1 under section 99:
- (e) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.
- 60. If the owner of a village-channel fails to fulfil the Howner of obligations mentioned in clauses (a) and (b) of the last precent fails to ding section, the canal-officer may require him by notice to execute work execute the necessary works or repairs within a period not camble flow being less than fifteen days, and in the event of failure may may do so. execute them on his behalf;

and all expenses incurred by the execution of such works or repairs shall be a sum due by such owner to Government;

and, if any such owner who has already failed on one occasion to execute such works or repairs when required to do. so, and has left them to be executed on his behalf by the canalofficer, shall again fail to execute any such works or repairs when required to do so; or if any such owner shall refuse in

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and · Oriega and Assam Laws Act, 1912 (7 of 1913), s. 8, and Sch. D, items 1 and 9, in Vol. I of this Code

(Part V.-Of Village-channels.-Secs. 61-66.)

any respect to fulfil the obligation mentioned in clause (c) of the last preceding section, after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

Resignation of ownership.

61. Any owner may resign his interest in a village-channel:

Provided such resignation be duly registered in the office of the canal-officer.

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person:

Provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel, until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and, if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

65. All joint owners of a village channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

66. Any person not an owner of a village-channel, desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

Owner may transfer interest.

Procedure on death of owner of villagechannel.

Procedure
when person
applies for
registration
in lieu of
deceased
owner.

Interest of owners equal unless unequal interest registered. Supply of water to person not owner. of 1876.]

(Part V.-Of Village-channels.-Part VI.-Of the Supply of Water.—Secs. 67-74.)

67. On receipt of such application the canal-officer shall Canal-officer may authorise serve notice on the owners to show cause why such permission supply. should not be be granted, and, if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

68. The canal-officer shall also fix a sum as rent to be paid Canal-officer for the use of such viilage-channel to the owner.

of village-channel.

Such rent may be in the form of a percentage on the waterrate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

69. The owner of a village-channel which receives its Owner of water through another village-channel may, at the discretion of channel the canal-officer, either be declared a joint owner of such other supply village-channel, or may be required to pay rent for the use of through the same to the owner thereof, as provided in the last preceding

70. All rent payable under either of the two last preceding Instalments sections shall be deemed to be due in the same instalments and in which reat in the same precious as the water rate is due as in small other is payable. at the same periods as the water-rate is due, or in such other instalments and at such other dates as the canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

71. Any canal-officer collecting rent under the last preced- Canal-officer ing section on behalf of any person entitled thereto shall be more than bound to pay to the person entitled to the same no more than amount collected. the amount actually collected by him as rent.

72. No land acquired under this Part for a village-channel Land sequired shall be used for any other purpose without the consent of the for other canal-officer previously obtained.

73. Every sum declared to be due under this Part shall be Dues how recoverable by the canal-officer on behalf of the Government or of the person entitled to receive the same, and shall be held to · be a demand *

PART VI.

OF THE SUPPLY OF WATER.

74. Every person desiring that water shall be supplied to water shall be supplied or supplied or written application to written application to written that effect to the canal-officer, in the form given in Schedule B application hereto appeared on in a similar form hinding himself by the hereto annexed, or in a similar form, binding bimself by the rules made by the Lieutenant-Governor' under the powers'

¹ The reference to Ben. Act. 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act. 7 of 1880), is omitted. As to recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act. 8 of 1918), s. 8 (6) and Sch. I, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2. in Vol. I of this Code.

(Part VI.-Of the Supply of Water.-Secs. 75, 76.)

vested in him by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

Written permission to be given. 75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded in the form given in Schedule C hereto annexed, or in some similar form, binding himself by the rules made by the Lieutenant-Governor as aforesaid.

Rules subject to ecuditions as to power to stop water-supply;

- **76.** All rules made by the Lieutenant-Governor under section 99 shall be consistent with the following conditions:—
- (a) The canal-officer may not stop the supply of water to any village channel, or to any person who is entitled to such supply, except in the following cases:—
 - whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;
 - (2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom;
 - (3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water;
 - (4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water;
- (b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary; but the person suffering such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the Lieutenant-Governor:
- (c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manuer described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss.
- (d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be

compensation in case of failure or stoppage of supply;

claims to

account of interruption from other causes;

diration of mapping;

¹ New the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriesa and Assum Laws Act, 1913 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1876.]

(Part VI.-Of the Supply of Water.-Part VII.-Of Waterrates.—Secs. 77-80.)

held to continue only until that crop comes to maturity, and to apply only to that crop; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such

crops only as are matured within that year:

(e) No person entitled to use the water of any canal, or any sale or work, building or land appertaining to any canal, shall sell or right to use sub-let or otherwise transfer his right to such use without the canal-water; permission of the canal-officer, but all contracts made between contracts for Government and the owner or occupier of any immovable transferable property, as to the supply of canal-water to such property, with land. shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-water for officer may give permission for water to be taken for such other than purposes under such special conditions and restrictions as to those of the limitation and control of the supply as he shall think proper to impose in each case.

PART VII.

OF WATER-RATES.

78. The rates to be charged for canal-water supplied for Charge for purposes of irrigation shall be determined by the Lieutenant- water, now determined. Governor, 2 and all persons accepting the water shall pay for it accordingly.

79. If water supplied through a village-channel be used in Liability an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, neglect such use has occurred cannot be identified,

the persons on whose land such water has flowed, if such be identified.

land has derived benefit therefrom, or, if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as deter-

mined by the Lieutenant-Governor under section 99.

80. If water supplied through a village-channel be suffer- Liability ed to run to waste, and if, after inquiry by the canal-officer, when water runs to waste the person through whose act or neglect such water was

¹ For a list of orders made under section 78 for Bengul, as constituted on the 31st March, 1912 see the Bengul Local Statutory Rules and Orders, 1912. Vol. I, Pt. VI.

² Now the Governor in Council of Fort William in Bengul—see the Bengul, Bihar and Orlasa and Assam Laws Act, 1912 (7 of 1912), s. S, and Sch. D, items 1 and 2. in Vol. I of this Codes

(Part VII.-Of Water-rates.-Secs. 81-86.)

suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the Lieutenant-Governor under section 99.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

Charger recoverable in addition to penalties. 81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Power to contract for collection of canal-dues. 82. The canal-officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Sum payable under this Part deemed to be rent, 83. Any sum lawfully due under this Part, either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a patta or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable:

Provided that the claim (if any) for rent in respect of such land shall have priority over any claim for arrears of waterrate so far as regards recovery of rent by the exercise of the

power of distraint.

Person who distrains may be called on to produce account, crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an account showing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which has been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collection of water-rate, and every sum due to such person on account of water-rate and certified by the canalofficer to be so due, shall also be held to be a demand * * * 2.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

Arrears of water-rate deemed to be demand.

Sections not applying to fines.

¹ Now the Governor in Connoil of Fort Willian in Bengal—ses the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912). a. 8, and Sch D. items 1 and 2, in Vol. I of this Code.

S The reference to Bengal Act 7 of 1868, which was repealed by the Public Domands Becovery Act, 1880 (Ben. Act 7 of 1889), is omitted. As to recovery of "demands," see now the Bengal Public Domands Recovery Act, 1913 (Ben. Act 3 of 1918), s. 8 (6), and Sch. I, in Vol. III of this Code.

(Part VIII.—Of Jurisdiction.—Secs. 87-91.)

PART VIII.

OF JURISDICTION.

87. Whenever a dispute arises between two or more Settlement of persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter of the canal-officer stating the canal-offi officer stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter, and, after such inquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

88. Whenever any dispute arises among joint owners of a Dispute as to village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the canal-officer or Collector, as provided in the last preceding section.

89. Any order passed by the Collector, under either of the Order passed two last preceding sections, and, subject to the provisions of by Collector and canalsection 91, any such order passed by a canal-officer, shall officer to remain in force until set aside by the decree of a Civil Court, force until set and may be executed by any canal-officer as if it were a decree aside by Civil Court. of the Civil Court.

90. All suits arising out of the exercise of the power of Jurisdiction distraint for recovery of water-rates.

s to suits arising out of

or out of any acts done under colour of the exercise of the powers of distraint, said power of distraint,

or by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment... or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land

91. Every order passed by a canal-officer under Part V, Appeal and Part VI, Part VII or Part VIII of this Act shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the Division and of the Board of Revenuel, who may pass such order thereon as they may respectively think fit.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act, 2 of 1918).

Ben, Act 3

(Part VIII.—Of Jurisdiction.—Part IX.—Of Offences and Penalties.—Secs. 92, 93.)

Power to summon and examine witnesses. **92.** Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceding.

PART IX.

OF OFFENCES AND PENALTIES.

Offences under Act.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say:—

(1) damages, alters, enlarges or obstructs any canal or

drainage-work:

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work, or by any means raises or lowers the level of the water in any canal or drainage-work;

(3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(5) destroys, defaces or moves any level-mark or water-gauge

fixed by the authority of a public servant;

(6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work;

(7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom:

(8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment;

¹Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has again been repealed and re-enacted by the Code of Civil Procedure, 1826 (5 of 1906), and this reference should now be taken to be made to the latter code—wer s. 158 thereof. in General Acts. 1904-1909, Ed., 1908, p. 184.

of 1876,]

(Part IX.-Of Offences and Penalties.-Secs. 94-96.)

(9) violates any rule made under the Act, for breach whereof

a penalty may be incurred,

45 of 1860.

shall, in case the offence shall not amount to mischief Penalty. within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

94. Whoever, without the authority of the canal-officer,- Further (1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment;

(2) opens, shuts or obstructs, or attempts to open, shut or

obstruct, any sluice in any such embankment:

(3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer.

shall, in case the offence shall not amount to mischief Penalty. within the meaning of the Indian Penal Code, and on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceed-

ing six months. 95. Whenever any person is convicted of an offence under Obstruction either of the last two preceding sections, the convicting and damage Magistrate may order that he shall remove the obstruction or repaired. repair the damage in respect of which the conviction is held

within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector 2 [under the procedure provided by the Public Demands Recovery Act. 1895 for the recovery of public demands.

96. Any person in charge of, or employed upon, any canal Persons may remove from the lands or buildings belonging thereto, canal may or may take into custody without a warrant and take forthwith take offenders before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view

commits any of the following offences:-

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply or flow of water in or from any canal or in any river or

Ben. Act 1 of 1895

45 of 1860

¹ See Act 45 of 1860, r. 425, in General Acts, 1834-67, Ed. 1909, p. 852.
² These words and figures in square brackets in s. 95 were substituted for the words and figures et as a demand under section 1 of the aforesaid Ben. Act 7 of 1868 by the Repealing and Amending Act, 1908 (1 of 1908), 86b. II.—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—ride Act 10 of 1914, Sch. II
² Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1913), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code

Ben. Act 3

(Part IX.—Of Offences and Penalties.—Part X.—Of Subsidiary Rules.—Secs. 97-99.)

stream, so as to make dangerous or render less useful any canal.

Saving of prosecution under other laws. 97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:

Provided that no person shall be punished twice for the same offence.

Compensation to person injured. 98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to any person who gave information leading to the detection of such o ence, or to the conviction of the offender.

PART X.

OF SUBSIDIARY RULES.

Power to make, alter and cuncel rules.

- 99. The Lieutenant Governor may, from time to time make rules to regulate the following matters:—
 - (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
 - (b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
 - (c) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;
 - (d) the amount of any charge made under this Act:
 - (e) and generally to carry out the provisions of this Act.

The Lieutenant-Governor may, from to time, alter or cancel any rules so made.

Publication of

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law:

Provided that no rules shall be made by the Lieutenant-Governor¹ under the powers conferred on him by this section until a draft¹ of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutena t-Governor¹ may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Bch. D, item 1, in Vol. I of this Code.

5 For a list of rules made under section 99 for Bengal, as constituted on the 31st March, 1912 see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. Vl.

24 at to such drafts, see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 24, in Vol. III of this Code.

(Schedules A, B.)

SCHEDULE A.

(Repeal of Benyal Acts 8 of 1867 and 6 of 1869). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

SCHEDULE B.

(See section 74.)

APPLICATION FOR WATER.

No.

Mauza.

Pargana.

Canal.

Village-channel.

Name of owner of village-channel.

Name of applicant.

I, the undersigned, hereby apply for water from the abovenamed village-channel for the fields and crops below detailed and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the Lieutenant-Governor¹ under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rule issued under that Act:—

Acreage of field.	Crop to be grown,			
1				
!				
i				
	plante P - A a seculation record approximate the control of the co			
Q!				
Signature or	Signature or mark of applicant.			

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orlssa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch D, items 1 and 2, in Vol. I of this Code.

[Ben. Act 3 of 1876.]

(Schedule C.)

SCHEDULE C.

(See section 75.)

	Peri	MISSION TO T.	AKE WATER.				
No.							
Permit		of village	to tak	to take water from			
canal village-channel for the undermentioned fields and crops:—							
No. of field.	Acreage of field.	Crops to be grown.	Water-rate dues.	Date of pay- ment.			
,	:		:				
	i						

Signature of Canal-officer.

Date

BENGAL ACT 7 OF 1876

(THE LAND REGISTRATION ACT, 1876).

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BENGAL ACT 7 OF 1876

[THE LAND REGISTRATION ACT, 1876]1.

(23rd August, 1876.)

An Act to provide for the registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

Whereas it is expedient to make better provision for the Preamble. preparation and maintenance of registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortagages of revenue-paying lands; It is hereby enacted as follows:-

PART 1.

PRELIMINARY.

1. This Act may be called the Land Registration Act, 1876. (Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. 11.

2. (Regulations repealed). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903-vide Act 10 of 1914, Sch. 11.

3. In this Act, unless there be something repugnant in the Interpretasubject or context,-

(1) "Civil Court" means any Civil Court which is competent to hear and determine the matter with respect to which the words are used;

LEGISLATIVE PAPERS.—For Report of Select Committee, see Calcutta Gazette, 1876, Pt. IV, p. 57; and for Proceedings in Council, see ibid, Supplement, 1875, p. 11; ibid, Supplement, pp. 42, 185, 515 and 829.

^{180, 510} and 829.

LOCAL EXTENT.—Since this Act contains no local extent clause, it must be taken to have been intended to extend to the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

ANNOTATED RUPAINT.—For an annotated reprint of this Act, see the Bengal Laud Registration Manual 1909 n. 6.

ANNOTATED RUPKINT.—For an annotated reprint of this Act, see the Bengal Laud Registration Manual, 1909, p. 6.

OTHER ENACTMENTS.—As to the registration of land, see also—

(1) the Bengal Revenue-free Lands (Non-Badshahi Grants) Begulation, 1793 (19 of 1793), ss. 24 and 25 to 28, in Vol. I of this Code.

(2) the Bengal Revenue-free Lands (Badshahi Gants) Regulation, 1793 (87 of 1793), ss. 19 and 21 to 23, in Vol. I of this Code.

(3) the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), s. 19, in Vol. I of this Code.

(4) the Bengal Land-revenue Sales Act, 1859 (11 of 1859), s. 89, in Vol. I of this Code, and (5) the Bengal Land-revenue Sales Act, 1859 (11 of 1859), s. 89, in Vol. I of this Code, and to the registration of tenants' rights, see the Land Records Maintenance Act, 1895 (Ben. Act 8 of 1895), in Vol. III of this Code.

As to the effect of registration under the present Act, see the Bengal Tenancy Act, 1886 (8 of 1885), ss. 60, 38, 121, in Vol. I of this Code.

...

(Part I.—Preliminary.—Sec. 3.)

- (2) "estate" includes-
 - (a) any land subject to the payment of land-revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government;
 - (b) any land which is entered on the revenue-roll as separately assessed with land-revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole;
 - (c) any land being the property of Government of which the Board shall have directed the separate entry on the general register hereinafter mentioned ¹ [or on any other register prescribed for the purpose by rule made under this Act];
- (3) "extent of interest" means the share or interest in an estate or revenue-free property of which the person with respect 'to whom the words are used is in possession as proprietor or manager;

(4) "Lieutenant-Governor' means the Lieutenant-Governor of Bengal for the time being, or the person acting in that

capacity ;

(5) "local division" means a sub-division, pargana, thana, police division or jurisdiction, or other division according to which the manzawar register of the district is

(6) "Manager" means every person who is appointed by the Collector, the Court of Wards or by any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot or lunatic, or on behalf of a religious or charitable foundation '[or as a trustee or executor];

¹ These words in square brackets were added to s. 3 (c), for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 2 (I), and, for Rastern Bengal, by the Kaatern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A Act 1 of 1907), s. 2 (I), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.
¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. %, and Sch. D, items 1 and 2, in Vol. I of this Code.
² For power of Court of Wards to appoint a manager, see the Court of Wards Act, 1879 (Ben. Act 8 of 1879), s. 20, post, p. 418.
² These words in square brackets were added to clause (6), for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 2 (S), and, for Kastern Bengal, by the Engal Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 2 (2), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part I.—Preliminary.—Sec. 3.)

- 1(7) "mauza" means the area defined, surveyed and recorded as a distinct and separate mauza in-
 - (a) the general land-revenue survey which has been made of the Province of Bengal, or
 - (b) any survey made by the Government which may be. adopted by notification in the Government Gazette, as defining mauzas for the purposes of this clause in any specified area;

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue, by general or special order, declare to constitute a mauza;

- (8) "proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof; and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector:
- (9) "recorded proprietor" means any proprietor whose name, and the character and extent of whose interest in an estate or revenue-free property, stand registered in any general register now existing or hereafter to be made under this Act:
- (10) "revenue-free property" means any land not subject to the payment of land-revenue which is included under one entry in any part of the general register of revenue-free lands;

(11) "section" means a section of this Act; (12) "the Board" means the Board of Revenue of the Provinces for the time being subject to the Lieutenant-Governor of Bengal³;

(13) "the Collector" means the Collector of the district to

which a register relates;

(14) "the district" means the district to which a register relates.

¹ This clause (7) was substituted for the original clause (7), for Eastern Bengul, by the Eastern land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 2 (3) a Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4,

The original clause ran thus-"(7) meass includes every village, hamlet, tola and other similar sub-division of land commonly in use in any district, by whatever name such sub-division may be known."

Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 8, in Vol. 1 of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

Now the Board of Revenue for Bengal.

Ben. Act 7

(Part II.—Of the Registers to be kept up by the Collector.— . Secs. 4-7.)

PART II.

OF THE REGISTERS TO BE KEPT UP BY THE COLLECTOR.

Callector to keep registers.

- 4. The Collector of every district shall prepare and keep up the following registers:-
 - A.—A general register of revenue-paying lands.
 - B.—A general register of revenue-free lands.
 - C.—A muuzawar register of all lands revenue-paying and revenue-free.
 - D.—An intermediate register of changes affecting entries in the general and mauzawar registers.

Forms, language, character and arrangement of registers.

5. The registers shall be written in such forms, languages and character, and shall be arranged in such manner not being inconsistent with the provisions of this Act, as the Board from time to time may direct 1 for each district.

General register of reve-nue-paying lands.

- 6. The general register of revenue-paying lands shall consist of two parts:-
 - Part I.—Book of estates borne on the revenue-roll of the district.
 - Part II.—Book of lands situated in the district appertaining to estates borne on the revenue-rolls of other

Part I of general regis-ter.

- 7. In Part I of the general register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the district, and the following particulars relating to every such estate:-
 - (a) name of the estate;
 - (b) number of the estate on the revenue-roll of the district, and the annual amount of revenue for which it is
 - (c) names and addresses of the proprietors, managers and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee:
 - (d) name of every local division in which any lands of the estate are situated, whether in the district or in

¹ For a list of orders made under s. 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

¹ The secord paragraph of s. 6 was repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act (len, Act 2 of 1906), s. 16 (a), and, in Eastern Bengal, by the Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. ¹6 (a). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II. The said-paragraph ran thus:—

"The entries in each Part of the general registers shall be numbered in one conscoutive series for the whole district, and shall follow one alphabetical arrangement, running from the beginning to tha nd of the Part."

(Part II .- Of the Registers to be kept up by the Collector .-

any other district, with specification under each local division of—

- (i) the number of manzas containing such lands.
- (ii) the name of each mauza,
- (iii) the number which each mauza bears under the local division in the maurawar register, and
- (iv) the area of land appertaining to the estate which each manza contains, if ascertained by survey or other authentic measurement:
- 1(e) reference to entries made in the intermediate register after the preparation of the general register.
- 8. In Part II of the general register of revenue-paying Part II of lands shall be entered the name of every estate which comprises general regislands situated in the district but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate:-

- (a) name of the estate;
- (b) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable, 2 [and the number which the estate bears in Part I of the general register of revenuepaying lands for its own district];
- (c) names and addresses of the proprietors, managers or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;
- (d) name of every local division of the district to which the register relates, in which any lands of the estate are situated, with a specification under each local division of—
 - (i) the number of mauzas containing such lands,
 - (ii) the name of each manza,
 - (iii) the number which each manza bears under the local division in the mauzawár register of the district, and

¹ Clause (e) of s. 7 was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E B. & A. Act 1 of 1907), s. 16 (2), respectively, in districts in respect of which any order is issued under any clause of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act 1914 (Ben. Act 1 of 1914) s. 6, Sch. IV., and the latter Act has been extended to Western Bengal by the same Act, s. 1, Sch. II.

¹ These words in square brackets in s. 8 were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E B. & A. Act 1 of 1907), s. 16 (3), respectively, in districts in respect of which say order is issued ander clause (a) or clause (b) of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 6, Sch IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part II.—Of the Registers to be kept up by the Collector.— Secs. 9, 10,)

- (iv) the area of land appertaining to the estate which each mauza contains, if ascertained by survey or other authentic measurement;
- '(r) reference to entries made in the intermediate register after the preparation of the general register.

General register of revenue-free lands

- 9. The general register of revenue-free lands shall consist of three parts—
 - Part I.—Book of lands held exempt from revenue in perpetuity.
 - Part II.—Book of lands occupied for public purposes without payment of revenue.
 - Part III.—Book of unassessed waste-lands and other lands not included in Part I or Part II of the general register of revenue-free lands.

Part I of general register of revenue-free lands.

- 10. In Part I of general register of revenue-free lands shall be entered
- all lands held under badshahi hukami and other lakhiraj grants which have been declared to be valid by competent authority,

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land-revenue, in consideration of the payment of a capitalized sum, or for any other reason, and

any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this Part of such register.

Part I of such register shall, as far as possible, contain the following particulars in respect of each entry:—

- (a) name of the revenue-free property, with the character of the tenure, whether jagir, altampha, debottar, bishunpirit, purchased revenue-free, redeemed or otherwise:
- (b) date of the grant or title being conferred;

(c) nominal area granted;

(d) names of the grantor and original grantee:

- (e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid:
- (f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;

¹ Clause (c) of s. 8 was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (B. B. & A. Act 1 of 1907), s. 16 (2), respectively, in districts in respect of which any order is issued under any clause of s. 19 A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

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(Part II.—Of the Registers to be kept up by th: Collector.— Secs. 11, 12)

- (g) name of every local division in which any land appertaining to the property is situated, whether in the district or in any other district,, with specification under each local division of—
 - (i) the number of mauzas containing such land,
 - (ii) the name of each mauza.
 - (iii) the number which each mauza bears under the local division in the mauzawár register, and
 - (iv) the area of land appertaining to the revenuefree property which the mauza contains if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement:
- (h) reference to the entries in earlier registers relating to the property or any part thereof;
- (i) reference to entries made in any intermediate register after the preparation of the general register.
- 11. In Part II of the general register of revenue-free lands shall be entered all lands which are occupied by the Governge register of revenue-free lands ment, or by any public body, for public purposes, and on lands. account of which no land-revenue is demanded.

It shall contain the following particulars:-

- (a) area of the land comprised in each entry;
- (b) names of the local divisions and mauzas in which the lands are situated, with area in each mauza and a reference to the number under which each mauza is entered in the mauzawar register of the local division:
- (c) name of the department of Government or of the public body by which the land is occupied;
- (d) the purpose for which it is occupied;
- (e) the date and particulars of the appropriation of the land to such purpose;
- (f) reference to entries in the intermediate register made after the preparation of the general register.
- 12. In Part III of the general register of revenue-free lands Part III of. shall be entered all waste and other lands (not being included register of in any other part of the general register) which are not revenue-free assessed to land-revenue. It shall contain the following. particulars :--

- (a) name and number of the lot, or other particulars identifying the property;
- (b) area comprised in each entry;

(Part II.-Of the Registers to be kept up by the Collector .-Secs. 13-15.)

- (c) name of every local division and mauza in which lands of the property are situated, with area in each mauza, and a reference to the local division and number under which each mauza is entered under the local division on the mauzawar register;
- (d) reference to entries in the intermediate register made after the preparation of the general register.

Board may direct that three last sections shall not apply to any district.

13. If it shall appear to the Board that the circumstances of any district are such, [or that, in consequence of the preparation of a record-of-rights, or for any other reason, the circumstances of any district or part of a district are so altered,] that it is not desirable or practicable to prepare ² [or re-write or maintain] the register of revenue-free lands in the manner described in the three last preceding sections,

the Board may direct 3 that the said sections shall not apply to such district, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof:

Provided that such rules shall require the registration of the name of one or more persons as liable for the discharge of the duties and obligations referred to in section 68 in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor and published in the Calcutta Gazette and otherwise locally as the Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

- 14. The mauzawár register shall be kept up for the purpose of showing, in a connected form, the mauzas situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mauza consists.
- 15. The mauzawar register shall be arranged and divided according to sub-divisions, parganas, thanas, police-jurisdic-

Purpose of mausawar register.

register to be arranged according to local divisions.

t These words in square brackets in s. 18 were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1996), s. 3 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 5 (1), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Wostern Bengal by the same Act, s. 4, Sch II.

These words in square brackets in s. 13 were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1904), s. 3 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. S. and A. Act 1 of 1907), s. 8 (2), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

For a list of orders made under section 18 for Bengal as constituted on the Sist March, 1912, set the Bengal Local Statutory Rules and Orders, 1912, Vol. 4, Ft. VI.

Row the Governor in Conneil of Fort William in Bengal—set the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items I and 2, in Vol. I of this Code.

(Part II.-Of the Registers to be kept up by the Collector.-Secs. 16, 17.)

tions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mauzas shall have a separate series of consecutive numbers ¹ [for each local division, and shall be so arranged as the Board * may direct.]

The mauzawár register shall contain the following

particulars :-

(a) name of the mauza;

(b) total area of mauza, if ascertained by survey or other authentic measurement, with a reference to the

authority for the entry;

(c) name of every estate or revenue-free property to which any of the lands of the mauza appertain, with a reference to the entry of each on the general register, and a specification of the area of land in the mauza which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;

(d) gross rental of the area of land in the mauza which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry;

(e) reference to entries made in intermediate registers after the preparation of the mauzawár register.

16. Intermediate registers shall be kept up for the purpose Intermediate of recording therein from time to time changes affecting the entries which stand in the general and mauzawir registers, so that by a reference to them, in connection with those registers, correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the general and mauzawár registers.

17. The intermediate register shall consist of two parts, as Division of follows :-

register.

Part I.—Book of changes affecting entries relating to revenue-paying lands.

¹ These words in square brackets in s. 15 were substituted for the words "and a separate alphabetical arrangement for each local division," for Western Bengal, by the Bengal Land Begistration (Amendment) Act, 1966 (Ben. Act 2 of 1906), s. 4, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 4, in Vol. III of this Code. The former Act has been repealed by the Bengal Law Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

Now the Board of Revenue for Bengal, see the Bengal, Bihar and Orissa and Assam Laws. Act, 1912 (7 of 19:2), s. 3 and Sch. D, item 3, in Vol I of this Code.

As the present constitution and powers of the Board of Revenue, see now the Bengal Board of Berenue Act, 1918 (Ben. Act 2 of 1913).

(Part II.—Of the Registers to be kept up by the Collector.— Secs. 18, 19.)

Part II.—Book of changes affecting entries relating to revenue-free lands.

Particulars of Part I of interméliate register.

- 18. In Part I of the intermediate register shall be recorded, in a convenient form, all changes in the names of proprietors, managers and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager and mortgagee, and such other changes affecting any entry standing in the general register of revenue-paying lands, or any entry in the manzawar register relating to revenue-paying lands as cannot conveniently be entered against such entry in the general or the manzawar register. It shall contain the following particulars:—
 - (a) name of the estate affected, with references to ¹[the number it bears on the general register of revenue-paying lands,] the number it bears on the revenue roll, and the amount of revenue for which it is liable:
 - (b) references to previous entries in the intermediate register relating to the estate;
 - (c) particulars of the change, with a reference to the authority under which it is made;
 - (d) the numbers borne by the entries [in each Part of the general register of revenue-paying lands, and] under each local division in the mauzawar register which are affected by the change here recorded.

Particulars of Part II of intermediate register.

- 19. In Part II of the intermediate register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the general register of revenue-free lands, or any entry relating to revenue-free lands in the mauzawar register, as cannot conveniently be entered against such entry in the general or the mauzawar register. It shall contain the following particulars:—
 - (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the register of revenue-free lands;
 - (b) reference to previous entries in the intermediate register relating to the property;

¹ These words in square brackets in s. 18, clauses (a) and (d), were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A 1 of 1907), s. 16 (3), respectively, in districts in respect of which any order is issued under clause (a) or clause (b) of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. 1V, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. R.

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of 1876.]

'(Part II.—Of the Registers to be kept up by the Collector.— Secs. 19A. 19B.)

- (c) particulars of the change, with a reference to the authority under which it is made:
- (d) the numbers borne by the entries in the general register and under each local division in the mauzawár register which are affected by the change here recorded.
- 119 A. Notwithstanding anything contained in other sec- Power or tions of this Act, the Board 2 may from time to time, by written Board to issue orders as to 3 order, direct, in respect of all or any districts,-
 - (a) that all matters required by this Act to be entered entered intered in in the general register of revenue-paying lands and Register A or Part I of Part I of the intermediate register, respectively, Register D. shall be entered in a combined register to be prescribed by the Board, instead of in the aforesaid registers, or
 - (b) that all matters required by this Act to be entered in the general register of revenue-paying lands shall be entered in Part I of the intermediate register instead of in the general register of revenue-paying lands, or
 - (c) that all matters required by this Act to be entered in Part 1 of the intermediate register shall be entered in the general register of revenue-paying lands instead of in the intermediate register.

Explanation .- An order issued under this section may merely direct the entry of matters in some register other than that prescribed for the purpose by other sections of the Act. It may not prohibit the record of matters which are required by the Act to be recorded.

319 B. All provisions of this Act (other than section 19 A) Act to be read subject to the maintenance of registers, as to the entry of matters in order so any particular register or in any particular Part of any register, and as to other matters relating to registers, shall be read subject to any orders issued by the Board under section 19 A and for the time being in force.

1 This s. 19 A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 5, in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act 1912 (7 of 1912), s. 3, and Sch. D, Item 3, in Vol. I of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Bevenue Act, 1918 (Ben. Act 2 of 1913).

Section 19B was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 5, and, for Eastern Bengal by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 5, vol. III. of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 20-23.)

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

Old registers to be in force till new" registers prepared. 20. Until the registers by this Act directed to be prepared are so prepared the existing registers now kept up in the office of every Collector shall be deemed to be the registers kept up under this Act, that is to say,

the existing general register of revenue-paying estates shall be deemed to be the general register of revenue-paying

lands:

the existing paryana register (Part II) of revenue-free lands shall be deemed to be the general register of revenue-free lands and the mauzawar register in respect of revenue-free lands:

the existing paryana register (Part 1) of revenue-paying lands shall be deemed to be the mauzawar register in respect

of revenue-paying lands;

the existing register of intermediate mutations shall be deemed to be the intermediate register of changes affecting entries in the general and manzawar registers;

and all the provisions of this Act shall, as far as possible, be deemed to be applicable to such registers and to the registration therein of the names and interests of proprietors, managers and mortgagees.

How registers to be prepared.

21. The first general registers and the first mauzawar register under this Act shall be prepared for each district at such time as the Board may direct from the entries in the existing registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

Board may order new registers to be prepared.

22. The Board may order new registers to be prepared whenever it may think fit, and such registers shall be prepared from the registers existing at the time of such order, and from the entries of subsequent changes in the intermediate registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous registers shall be made as subsequent changes have rendered necessary, and the authority for every change shall be expressly referred to.

Butry of estate on Part of general register. 23. Whenever, after the preparation of the general registers, it may be necessary to bring any estate or revenue-free property on to any Part of such registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such Part under a new number in continuation of the last number already borne on such Part:

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 24-26.)

Whenever, after the preparation of the mauzawar Entry of register, it shall be necessary to enter any mauza under any mental division local division of such register under which it is not already of manzands borne, such mauza shall be at once brought under the proper register. local division with a new number in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the mauzawár register in which such estate or property would have appeared according to '[the arrangement directed under section 151.

25. (Örder of entries under two preceding sections). Rep., in Western Bengal, by the Bengal Land Registration (Amend-ment) Act, 1906 (Ben. Act. 2 of 1906). s. 16 (c), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16(c).

26. After the general register of revenue-paying lands Note to be shall have been prepared, a note shall from time to time be made on such register against the estate affected—

- of every alteration which may be ordered by competent authority in the amount of revenue assessed on any
- of every partition of an estate into two or more estates; of every change involving the removal of an estate from the part of the register on which it is borne;
- of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register:

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the register may be recorded in Part I of the intermediate register, as provided in section 18, and a reference shall be made in

the general register against the estate affected to every entry

¹ The words and figures "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5" were repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (b), and, in Eastern Bengal by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

These words in square brackets in s. 24 were substituted for the words "the alphabetical arrangement mentioned in section 15", for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Ac 2 of 1906), s. 6, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 6, in Vol. III of this Code.

The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

Ben. Act 7

(Part II.—Of the Preparation and Maintenance of the Registers.—Secs. 27-29.)

which may be made in the intermediate registers recording any such change.

Note on segmental register of revenue free lands.

- 27. After the general register of revenue-free lands shall have been prepared, a note shall from time to time be made on such register against the property affected
 - of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the part of the register on which it is borne:

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the register may be recorded in Part II of the intermediate register as provided in section 19.

Collector, after inquiry, may make change in register. 28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his registers, and renders necessary any alteration therein, the Collecter, after making such inquiry as may be necessary, shall make such alteration:

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property, and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is affected; and any objections, which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

¹[The notice required under this section shall be served in

the manner prescribed by section 50.]

29. Whenever it shall appear to the Collector, in the course of an inquiry made in respect of an application under section 38 or section 42 or otherwise that any person whose name is recorded in the general register as proprietor or manager, or joint-proprietor or joint-manager, of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that

¹ These words in square brackets were added to s. 28, for Western Bengal, by the Bengal Land Registration (Amendment) Act, s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 [S. B. and A. Act 1 of 1907], s. 7, in Vol. III of this Ocd. "The former Act has been repealed by the Bengal Law Act, 1914 (Ben. Act 1 of 1914), s. 6, 8ch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, 8ch. II.

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(Part III.-Of the Preparation and Maintenance of the Registers.—Sec. 30.)

the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the register.

the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property and, if required, may grant him a certificate to that effect.

30. To enable the Collector more effectually to maintain to be supplied to Collector. his registers,-

- (a) whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenueroll of which the estate is to be transferred shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made;
- (b) whenever the Collector of any district shall make an entry, or any alteration of any entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district:

(d) every proprietor and manager of an estate or revenuefree property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector.

to furnish any information required by the Collector for the '[entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder], or

to show to the satisfaction of the Collector that it is not

in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section 50, requiring the production of such information before a date mentioned in such notice.

¹ Clause (c) of s. 80 was repealed, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907,) s. 16 (d), and is omitted. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

¹ These words in square brackets were substituted for the words and figures "purpose of preparing, making or correcting any entry of the particulars specified in s. 7, 8, 10, 11, 12 or 15", for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 8 (t). This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

(Part III.-Of the Preparation and Maintenance of the Registers.-Secs. 31, 32.)

(e) whenever any minor, disqualified proprietor or other beneficiary, whose name has been recorded in any register along with that of a guardian or manager, lawfully assumes direct charge of his estate, he shall within six months give notice to the Collector and apply for correction of the register by removal therefrom of the name of such guardian or manager.

Penalties for not giving notice or fornishing

31. Whoever, being bound 2 * * under clause (d) of ³ [section 30] to furnish any information required by the Collector, [or under clause (e) of the said section to give notice of his having assumed direct charge of an estate], shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information,

shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission;

and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section 50, and the date fixed by such notice shall not be less than 15 days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives

¹ This clause (c) was added to **. 30, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 8 (2), in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

*The words "by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or "in section 31, which were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV. are omitted.

*The words and figures "section 30" were substituted for the words "the said section" by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. III, in Vol. III of this Code.

*These words in sparse brackets were insected in s. 81, for Western Bengal, by the Bengal Laws Act, 1906 (Ben. Act 2 of 1906), s. 9, and for Kastern Bengal, by the Bengal Laws Act, 1916 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal Laws Act, 1916 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

87 1676.] "

(Part III .- Of the Preparation and Maintenance of the Registers.—Secs. 33-35.)

effect to any decree transferring any such possession, such Court may order the transfer to be registered in the registers of the Collector, and the Collector shall register such transfer accordingly.

33. All lands which are held without payment of rent, Lands held not being a revenue-free property entered in the general without register of revenue-free lands as prescribed by sections 10. 11 of reat or 12, and not being a part of any such property, shall, for the be used to purposes of this Act, be deemed to be a part of the estate within of certain the local boundaries of which they are included; and, if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

34. Whenever it shall appear to the Collector that any Collector may lands which are not included in any estate as entered in the include any lands in an existing general register should be included in any such estate estate. for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to be served in the manner prescribed by section 50, and a general notice to be published, as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to

After the expiration of the said month or other period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

35. Whenever it shall appear to the Collector that any collector may land which is not entered on the general register as a separate register lands as a revenuerevenue-free property should be entered on the register as free estate such property, he may cause a notice to be served in the and sall or manner prescribed by section 50, calling on the person in apply for possession of such land as proprietor or manager to show cause registration. why such land should not be so registered as a revenue-free property:

and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further inquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the general register as a revenue-free property;

and by a notice served as prescribed in section 50, as well as by general notice published as prescribed in section 49, shall require every proprietor and manager of such revenue-free (Part III.-Of the Preparation and Maintenance of the Registers.—Secs. 36, 37.)

property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager;

and thereupon every such proprietor and manager shall be deemed, for the purposes of section 68, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so

far as may be practicable, shall apply to every such person: Provided that no such proprietor or manager shall be liable to any fine under section 65 until after the expiration of three months from the date on which the last-mentioned notice shall

have been served:

Provided, also, that no land shall be entered as a revenuefree property in Part I of the general register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanc-

tioned such entry.

36. The Board 1 may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the register as forming one revenuefree property shall be divided and entered on the register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the register as forming two or more revenue-free properties shall be united and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the general register of revenue-free lands shall be removed from such register, or shall be omitted from any new register of such lands which may be

prepared.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing general register should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section 50, and a general notice, to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow,

At the expiration of the said month or of such period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said

property for the purposes of this Act.

Board to decide what lands to be included in

each revenue-

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ban, Act 2 of 1918).

(Part IV.—Of the Registration and Mutation of Names— Secs. 38-40.)

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

138. Every proprietor of an estate or revenue-free proper- Proprietor ty or of any interest therein, respectively, being in possession of and manager such estate, property, or interest at the commencement of this within specified time. Act.

every joint proprietor of an estate or revenue-free property being in charge of such estate or property or of any interest therein, respectively, on behalf of the other proprietors thereof. at the commencement of this Act,?

and every person being manager of an estate or revenuefree property, or of any interest therein, respectively, on hehalf of a proprietor thereof, at the commencement of this Act.

shall, if his name and the character and extent of his interest have not already been registered, make application, in the manner hereinafter provided, for the registration of his name and of the character and extent of his interest as such proprietor or manager to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application within such time as the Lieutenant-Governor may fix as hereinafter provided.

139. The Lieutenant-Governor shall, within six months Lieutenantfrom the commencement of this Act, fir for each district Governor may the date or dates before which such proprietors and managers, which probeing in possession of estates or revenue-free properties, or of manager must any interest therein, respectively, at the commencement of this apply for regulation. Act, 'shall be required to apply for registration of their names and of the character and extent of their interests, under the last preceding section; and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

1 40. The Lieutenant-Governor may in any district, for Lieutenantthe purposes of the last preceding section, fix different dates in Governor may respect of estates and revenue-free properties, or in respect of dates in resdifferent classes of estates and revenue-free properties, or in different esrespect of different portions of the district:

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid until after the lapse of six months from the date on which the notice.

Sections 88 to 40 are obsolete.
 i.s., the 28rd August, 1876.
 For orders made under ss. 39 and 40 for Bengal, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

(Part IV .- Of the Registration and Mutation of Names .-Secs. 41, 42.)

prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or properly falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

Publication of date Reed by dentenant Gurernor.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the Calcutta Gazette;

and also by notices to be posted up

at the Court or office of the Judge, the Magistrate and the Collector of the district, in respect of which such date is fixed ;

at the Court or office of very Munsif, Sub-divisional Officer and Sub-Registrar of Assurances in such district;

and at every police-station in such district;

and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a Sub-divisional office is situated, and in such other places as

the Lieutenant-Governor may direct.

The officer in charge of every Court, office and police-station at which a notice is required to be posted up under this section shall certify to the Collector the date on which the notice was so posted up at his Court, office or police-station; and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

42. Every person succeeding, after the commencement of this Act?, to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift or other-

every joint proprietor of an estate or revenue-free property assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof :

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest there-

in respectively as manager.

shall, within six months from the date of such succession of assumption of charge, make application in the manner hereinafter provided to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

Person suc-ceeding to pro-prietary right in, or management of, estates to give information within six months.

¹ Section 41 is obsolete. ² i.e., the 28rd August, 1876.

of 1076.]

(Part IV.—Of the Registration and Mutation of Names. Secs. 43-48.)

43. Notwithstanding anything contained in section 38 or Lieutenantthe last preceding section, the Lieutenant-Governor may in Governor may in any district exempt proprietors and managers of all or any prietors and managers of all or any prietors. estates which are liable to pay less than twenty rupees of land imposed by revenue annually, and proprietors and managers of all or any Act. revenue-free properties which consist of less than fifty acres of land from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

44. Every person who holds a mortgage of any proprietary Mortgage right in any estate may apply to the Collector for registration may apply for egistration. of his name as such mortgagee, and of the interest in respect of which he is such mortgagee, and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

45. Any application for registration under this Act may be Presentation presented by the applicant or by some person duly authorized of application.

by him in that behalf.

46. If the applicant under section 38 or section 12 is a joint Manager to proprietor in charge as aforesaid, or a manager, he shall in his specify extent application specify the name of the person or persons on behalf of each person of whom he is in such charge, or on behalf of whom he is manager. manager, and the character and extent of the interest of every anch person.

47. If the application under section 38 or section 42 be for collector when registration of the name of the applicant as manager appointed to register by the Collector, the Court of Wanda 2 and by one Civil as applicant for by the Collector, the Court of Wards, or by any Civil or registration and Criminal Court, the Collector shall register the name of the manager appointed h applicant on proof being produced to his satisfaction that the authority. applicant has been so appointed to be such manager.

48. If the application be for registration otherwise than as Notice to manager appointed as mentioned in the last preceding section, objectors. and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further inquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respectof which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Binar and Orissa and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁸ For power of Court of Wards to appoint a manager, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), a. 20, post, p. 418.

(Part IV.—Of the Registration and Mutation of Names.— Secs. 49-52.)

specified in such notice, not being less than one month from the date of the publication thereof.

Publication of

- 49. Such notice shall be published by affixing a copy of the same on or at all the following places:—
 - (a) the zamindari cutcherry (if any) of the estate or other place at which the rents are ordinarily received;
 - (b) some conspicuous place in at least one village appertaining to the estate to which, the application relates, and if the estate comprises lands situated in more than one local division, then in at least one village in each local division containing such lands;
 - (c) the office or Court of every Collector, Sub-divisional Officer, Judge and Munsif within whose jurisdiction, and every police-station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

Notice to transferor. **50.** If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed

by this and the last preceding section.

Effect of irregularity in publication or service of notice.

- 51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.
- 52. On the day fixed in the notice issued under section 48, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further inquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of, the estate, revenue-free property, or interest therein, in respect of which registration is applied for;

(Part IV.-Of the Registration and Mutation of Names.-Secs. 53, 53A.)

and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer.

but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper registers as proprietor or manager of the said estate, revenue-free property or interest therein:

Provided that any person to whom any proprietary right in an estate has been mortgaged may be registered as mortgagee,

whether he be in actual possession or otherwise.

53. For the purpose of the inquiry mentioned in the last Power to preceding section, and of every inquiry held under this Act, witnesses ¹[and subject to the provisions of sections 640 and 641 of the and competer Code of Civil Procedure], the Collector may summon and documents. enforce the attendance of witnesses *[and any applicant or his agent] and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided '[in respect of witnesses] by the Code of Civil Procedure.

28 of 1861.

14 of 1882.

The evidence of every person examined by the Record of Collector in any inquiry from which an appeal lies under evidence in inquiries. this Act shall be recorded in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

14 of 1882.

¹ These words in square brackets in s. 58 were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 10 (a), in Vol. 111 of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1911, a. 4, Sub. II.

2 This reference should now be taken to be made to ss. 132 and 133 of the Code of Civil Proceding, 1908 (5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

3 These words in square brackets in s. 53 were inserted, for Western Bengal, by the Bengal Laud Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 10 (a), and, for Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. &. Act 1 of 1907), s. 10 (b), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Beh. IV, and the latter Act has been extended to Western Bengal, by the Bengal Laws Act, 1914 (Ben. Act 2 of 1906), s. 10 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. &. Act 1 of 1907), s. 10 (c), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 10 of 1882. The latter Act has been repealed and enemated by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

8 Bection 584 was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 11, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 11, and, for Eastern Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 11, and, for Eastern Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 11, and, for Eastern Bengal, by the Bengal Land Registration (A

Ben. Ask 7

(Part IV.—Of the Registration and Mutation of Names.— Secs. 54-57.)

Payment of

54. All costs of any inquiry or proceeding held before the Collector under this Act shall, except as provided in section 50, be payable by the parties concerned; and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

Dispute as to possession, succession or acquisition by transfer. 55. ¹[If the applicant's possession of, succession to, or acquisition by transfer of, the extent of interest in respect of which he has applied to be registered is disputed by, or on behalf of, any person making a conflicting claim in respect thereof, and if it is not proved to the satisfaction of the Collector that any person is in possession of the interest in dispute, the Collector shall determine summarily the right to possession of the same, and shall deliver possession accordingly, and shall make the necessary entry in the registers;

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided:

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference, as hereinafter provided, to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

In cases of disputed possession, etc., Collector may appoint receiver.

- 56. In any case of disputed possession of succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or, under the order of a Civil Court, in respect of the extent of interest in dispute.
- 57. Every order of a Collector passed under the first clause of section 55 shall be of the same force and effect as an order passed by the Judge under section 4 of Act 19 of 1841 (an Act for the protection of movable and immovable property against wrongful possession in cases of succession), determining

¹ This clause in square brackets in s. 55 was substituted for the original clause by the Bengal Land Ragistration (Amendment) Act, 1878 (Ben. Act 5 of 1878), post, p. 281. ² The succession (property protection) Act, 1841. It is printed in General Acts, 1884-67, Ed 1909, p. 87.

of 1676.

(Part IV .- Of the Registration and Mutation of Names .-Secs. 58-61.)

summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the Civil Court under section Procedure on 55, the Collector shall state, for the information of the said Court, in writing under his hand,-

section 55.

- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the general register and (if an estate) on the revenue-roll of the district;
- (2) the names of all the persons who now stand registered on the general register as proprietors, managers or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;
- (3) the name of the applicant for registry:

(4) the character and extent of the interest in dispute;

(5) the circumstances of the case, as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal Civil Procedure on Court of the district may either proceed to determine the erence, matter or may transfer the matter for determination to any other competent Civil Court in the district.

The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and, after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which Jadge may the matter is heard that danger is to be apprehended of the appoint oursmisappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act 19 of 1841 1.

61. The said Court may make such order as it shall think Costs. fit with regard to the payment by the parties of the cost of the inquiry and proceedings:

Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

⁴ The Succession (Property Protection) Act, 1841. It is printed in General Acts, 1884-87, Ed. 1998, p. 87.

(Part IV.—Of the Registration and Mutation of Names.— Secs. 62-64.)

Effect of summary decision of Court.

Court to cer-tify its deter-mination to Collector.

Collector to levy fees on transfers.

62. The summary decision of the Court under section 59 shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper registers.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer-

- (1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;
- (2) in the case of revenue-free lands, two-and-a-half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;

¹[(3) in the case of a fee-simple waste-land lot which is revenue-free, and for which no rents are received or receivable, two-and-a-half per centum on onetifteenth part of the value, such value being taken to

(a) in the case of a transfer by sale, the purchasemoney, and,

(b) in any other case, the value determined by the Collector:]

Provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

*[Provided also that the Board may, by general or special order, remit the payment of fees payable for any

Such fees shall be levied from the person in whose favour the transfer is registered.

¹ Clause (3) was inserted, in section 64, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 12 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B & A. Act 1 of 1907), s. 12 (1), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the sense Act, a. 4, Sch. II.

This proviso was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 12 (2), and, for Eastern Bengal by the Sensern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 12 (2), not III of this Code.

The former Act has been extended to Western Bengal by the same Act, a. 4, Sch. III.

Now the Board of Bevenue for Bengal—see the Bengal by the same Act, a. 4, Sch. III.

Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., item 8, in Vol. I of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.— Secs.-65-68.)

All fees levied under this section shall be carried to the account of Government.

Whoever, being required by this Act to apply for the Pensity for omitting to registration of his name and the extent of his interest in any comply with estate or revenue-free property voluntarily or negligently omits. Act. to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section 50, and the date before which such person is required to apply for registration shall not be less than one month after

service of such notice.

66. The Collector may proceed from time to time to levy Pine may be any amount which has become due in respect of any such fine, withstanding notwithstanding that an appeal against the order imposing appeal. such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

67. Notwithstanding anything contained in section 65, no No penalty on fine shall be imposed by the Collector under the said section on applies suo any person on the ground that such person has failed to make motu. application for registration of his name within the time fixed by the Lieutenant-Governor under section 39 or 40,

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section

42,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name and of the character and extent of his interest.

68. Save as is provided in section 90 of the Code of Liabilities of Criminal Procedure, all the recorded proprietors and managers and managers. of an estate or revenue-free property shall be deemed to be

10 of 1872.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.

Act 10 of 1812 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to s. 45 of that Code—see s. 8 thereof, in General Acts, 1898-1908, Ed. 1908, p. 40.

(Part V.-()f the Opening of separate Accounts in respect of Shares.—Secs. 69, 70.)

jointly and severally liable for the discharge of any duties and obligations which are, by any law for the time being in force. imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

Opening of separate account of share of applicant under Act 11 of 1859.

69. Notwithstanding anything contained in Act 11 of 18591 (an Act to improve the law relating to sales of land, etc.), from the commencement of this Act 2 no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

*70. When a proprietor of a joint estate, who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect.

The application must contain a specification of the land in which he holds such undivided interest, and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest.

Proprietor holding undivided apply for

¹ The Sengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

2 is., the 22rd Angust, 1876.

As to the protection from sale of shares of estates for which a separate account has been opened under s. 70, and which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Pt. III, post, p. 419.

As to separate liability for payment of road cess and public works cess when a separate account has been opened under s. 70, see the Cess Act, 1880 (Ben. Act 9 of 1880), s. 44, post, p. 556.

As to separate liability for payment of sums due under the Bengal Embaukment Act, 1882 (Ben. Act 2 of 1882), when a separate account has been opened under s. 70 of the present Act, see a II and 72 of the Act of 1882, post, pp 656, and 656.

bf 1876.]

11 of 1859.

(Part V.—Of the Opening of separate Accounts in respect of Shares.—Secs. 71, 72.)

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act 11 of 1859.1

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

INotwithstanding anything hereinbefore contained, no application under this section or under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859, shall be received unless it is accompanied by a fee of two rupees.]

71. Section 12 of the said Act 11 of 1859 shall apply to Sections 12, every application made under the last preceding section; and Act the effect and consequences of opening a separate account under 1859 applied. the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act 11 of 1859 1.

72. Whenever any share in respect of which a separate Application 10 or to close sep account has been opened by the Collector under section 10 or to close separate account. section 11 of the said Act 11 of 1859 , or under section 70, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or mere proprietors or managers.

any proprietor or manager whose name is borne on the general register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application.

setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers,

and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate,

and praying that the separate account standing open in respect of such share shall be closed.

and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

² This paragraph was added to section 70, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 13, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment: Act, 1907 (E. B. and A. Act 1 of 1907), s. 13, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part V.-Of the Opening of separate Accounts in respect of Shares.—Secs. 73, 74.)

Illustration.

In a certain estate separate accounts have been open under section 10 of Act 11 of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas shares being kept jointly in the names of the remaining proprietors C, D and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows :-

X	•••	•••	•••		annas.
В	•••	•••	•••	3	
D & E	•••	•••	•••	4	. ,.

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share and also the separate account which is open in respect of B's 5 annas share, but as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate; and in the same application X may apply for the opening of a separate account in

respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

Separate secount may be closed and

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act 11 of 18591; and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him under section 10 or section 11 of Act 11 of 1859 for under section 70, as the case may be.

Procedure in case of objection.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or

other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate, or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate) object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

of 1576.

(Part IV.—Of the Opening of separate accounts in respect of Shares.—Part VI.—Miscellaneous.—Secs. 74A-77.)

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

174A. Notwithstanding anything contained in the foregoing sections, if the Collector becomes aware, otherwise than a separate after receipt of an application under section 72, that any secund otherwise than a secund of the secund separate account opened under section 10 or section 11 of the upon applica-Bengal Land-revenue Sales Act, 1859 2, or under section 70 or on. section 72 of this Act, in respect of any estate does not represent existing facts, he may, after service of a notice on the recorded proprietor in the manner prescribed by section 50, and after hearing any objection which may be preferred, close the account.

11 of 1859.

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any register collector to mentioned in this Act to any person who may apply for the furnish same, subject to the payment of such fees for searching and from register. copying as may be prescribed by the Board.3

76. If in any district any register prescribed by this Act collector to has not been prepared and kept up in the vernacular language furnish translation of and character of the district, the Collector shall be bound, extract. together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

77. Whenever any change shall be made by order of Changes in competent authority in the names of the recorded proprietors names of proprietors, etc., or managers of any estate or revenue-free property, or in the and extent of character or extent of the interest of any such proprietor or notified on manager as entered in any register mentioned in this Act, so estate. soon as the order under which such change in the entry may

¹ Section 74 A was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 14, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 14, in Vol. III of this Oode. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

The Bengal Land-Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal
Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part VI.—Miscellaneous.—Secs. 78-80.)

have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every Sub-divisional Offic r within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may. think fit on the estate or property;

and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property [who is] concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the general register on the date of the issue of the notice.

No person bound to pay

78. No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act:

and no person being liable to pay rent to two or more such proprietors, managers or mortgagees holding in common tenancy shall be bound to pay to any one such proprietor, manager or mortgagee more than the amount which bears the same proportion to the whole of such rent as the extent of the interest in respect of which such proprietor, manager or mortgagee is registered bears to the entire estate or revenue-free property.

79. The receipt of any proprietor, manager or mortgagee whose name and the extent of whose interest is registered under this Act shall afford full indemnity to any person paying

rent to such proprietor, manager or mortgagee.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 18702), the Collector may pay to any one or more recorded 10 of 1870. proprietors or managers thereof respectively such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

Indemnity to persons
paying ront
to registered
proprietor.

rent to

claimant not registered.

Payment to each of several proprietors, etc., holding

in common tenancy.

Payment of sums payable by Collector te proprietors jointly.

I These words "who is" were inserted in section 77, for Western Bengal, by the Bengal Land Begistration (Amendment) Act, 1906 (Bon. Act 2 of 1906), s. 15, and. for Eastern Bengal, by the Eastern Bengal and Assam Land Begistration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 15, in Yol, III of this Code. The former Act has been repealed by the Bengal Laws Act, 1916 (Bon. Act 1 of 1914), s. 6, Sch. IV. s. d the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

2 Act 10 of 1879 has been repealed and re-curacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (8) thereof, in General Acts, 1887-97, Ed. 1909, p. 364.

of 1876.]

(Part VI.—Miscellaneous.—Secs. 81-85.)

31. Nothing contained in the three last preceding sections Saving of shall be held to interfere with the conditions of any written contracts and contract, or to prevent any person deeming himself entitled recovery from to any sum of money from recovering such sum by due receiving process of law from any other person who has received the money.

82. Every amount which may become due to the Collector Every amount due deemed to under the provisions of this Act in respect of any expenses be a demand. incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any lines imposed, shall be a demand be deemed to be a demand

83. The Collector may by a notice require the proprietor collector may or manager of any estate or revenue-free property to name require prosuch estate or property by a distinctive name, and in case name estate. of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector may name such estate or property.

IThe notice required under this section shall be served in the manner prescribed in section 501.

84. The Collecter may, by a special or a general order, Collector may delegate to any Assistant Collector, Deputy Collector or Subdictions. Deputy Collector, the performance of any duty, and the exercise of any function, which the Collector is required or empowered

to perform or exercise under this Act, except in respect of appeals.

and any Assistant, Deputy or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect

of appeals.

85. Every order passed under this Act by any revenue- Appeal. officer below the rank of the Collector of the district (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf,

and there shall be no further appeal from any order so

passed in appeal confirming the order appealed against,

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the district, or by any officer especially vested with appellate powers as aforesaid,

¹ The reference to the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), was repealed by the Public Demands Recovery Act. 1869 (Ben. Act 7 of 1880), and is omitted. As to recovery of edemands," see now the Bengal Public Demands Recovery Act. 1918 (Ben. Act 2 of 1918), a. 8 (8) and Sch. 1, in Vol. III of this Code.

3 These words is aquare brackets were added to s. 83, for Western Bengal, by the Bengal and Registration (Amendment) Act, 1907 (B. B. asci. A. Act 1 of 1907), a. 1, is Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1614 (Ben. Act 1 of 1924), a. 8, Sch. IV, and the laster Act has been extended to Wastern Bengal by the same Act, a. 4, Sch. II.

(Part VI.-Miscellaneous.-Secs. 86-88.)

being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against:

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Comissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

Exclusion of time in case of appeals.

Lientenant. Governor may

vest officer with special appellate powers.

- **86.** In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same shall be excluded.
- 87. The Lieutenant-Governor's may from time to time vest any officer other than the Collector of the district with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.

Board may make certain rules.

88. Within four months of the date's, on which this Act comes into force the Board shall make general rules, consistent with this Act, to regulate-

the form in which registers under this Act are to be kept;

the procedure as to the presentation, admission and verification of applications for registration under Part IV, and as to inquiries under section 52,

and generally for the purposes of this Act.

The Board 1 may from time to time cancel or alter any such rules.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assan Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² i.s., the 23rd August, 1876.

³ i.s., the 23rd August, 1876.

⁴ For a list of forms prescribed under section 88, and for rules made under that section for Bengal as constituted on the \$1st March, 1912, see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

of 1876.]

(Part VI.—Miscellaneous.—Sec. 89.—Schedule of Regulations repealed.)

- 89. Nothing contained in this Act, and nothing done in Saving clause. accordance with this Act, shall be deemed to—
 - (a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which he may deem himself entitled;
 - (b) render the entry of any land in the registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;
 - (c) affect the rights of the Government or of any person in respect of any immovable property or of any interest, except as otherwise expressly provided herein.

SCHEDULE OF REGULATIONS REPEALED.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

BENGAL ACT 5 OF 1878

[THE BENGAL LAND REGISTRATION (AMENDMENT) ACT, 1878].1 (29th May, 1878.)

An Act to amend Bengal Act 7 of 1876.

Whereas it is expedient to amend Bengal Act 7 of 1876; Preamble. It is enacted as follows:-

1. For the first clause of section 55 of the said Act the Clause substituted in following shall be substituted:-

rection 55 of Ben. Act 7 of 1876.

(Printed ante, p. 368.) 2. (Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903, -vide Act 10 of 1914, Sch. 11.

¹ Short Title—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch 1—see Vol I of this Code. That Act is now known as the Amending Act, 1903—ride Act 10 of 1914, Sch. II.
LEKHSLATIVE PAPERIS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1878, Pt. IV, page 79; and for Proceedings in Council, see ibid. 1878, Supplement, pages 375 and 400.
Local Extent—Since this Act has no local extent clause, it must (like the Land Registration Act. 1876, as to which see footnote ¹ on page 345, aute) be taken to have been intended to extend to the whole of the former Province of Bengal
The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation 1900 (1 of 1900), section 4 (2), printed in Vol. 1 of this Code.

BENGAL ACT 2 OF 1879

[THE PURI LODGING-HOUSE (EXTENSION) ACT, 1879].1

(2nd April, 1879.)

An Act to amend and extend the Puri Lodging-house Act, 1871.

Ben. Act 4 of

Whereas it is expedient to amend Bengal Act No. 4 of Preamble. 1871, and to give power to the Lieutenant-Governor of Bengal's to extend the provisions of the said Act * * * * . It is enacted as follows:-

- 1. (Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903-vide Act 10 of 1914, Sch. II.
- 2. Section 22 of Bengal Act No. 4 of 1871 is repealed and Amendment of section 22 the following section substituted:—

(Printed ante, p. 208.)

53. The

Lieutenant.

Governor may extend Puri Lodging-

house Act.

Lieutenant-Governor of Bengal may from time to time, by notification in the Calcutta Gazette, extend Bengal Act No. 4 of 1871, as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto:

and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification,

'3. The Lieutenant- Lieutenant-Governor of Bengal 3 may from Governor time to time, by notification and Puri Lodgingin the Calcutta Gazette, extend house Act. Bengal Act No. 4 of 1871², as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto;

and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification.

Lodging-house Act.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act. 1908 (1 of 1908), Sch. 1—ree Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt.

IV, pags 4; for Report of Select Committee, see ibid, p. 17; and for Proceedings in Council, see ibid, 1879, Mupplement, pages 6, 28 and 250.

LOCAL EXTRET.—As to the local extent of this Act, see foot-note 1 on p. 199, ante.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code.

Printed ante, p. 199.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. 1 of this Code.

The words and figures "to places other than those specified in section 89 of the said Act," in the preamble, were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and arg omitted.

Section 8 is in force in this form in Western Bengal.

omitted.

Section 3 is in force in this form in Western Bengal.

For a list of notifications issued under section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

Section 3 is in force in this form in Rastern Bengal.

The differences in section 3 as in force in Western Bengal and in Eastern Bengal, respectively,

lie in the words printed in italics.

apply accordingly, with the following modifications:—

in lieu of the word "Puri" in sections 2, 3, 7 1
*, shall be substituted the name of the place or places mentioned in the notification;

apply accordingly, with the following modifications:—

in section 7. after the word each" the words "day or" shall be inserted;

in fleu of the word "Puri" in sections 2, 3, 7 and Schedule B, shall be substituted the name of the place or places mentioned in the notification:

in lieu of the words "the rate of 8 amas," in section 8, shall be substituted the words "a rate not exceeding one rupee;"

in lieu of the last five words in section 14 shall be substituted the words "in the character of the remacular of the district."

t Portions of s. 3 are omitted as having been repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1906 (Ben. Act 3 of 1908), s. 16, in Vol. III of this Code.

This clause in italics was inserted by the Puri Lodging-house (Extension) Act, 1881 (Ben. Act 1 of 1881), s. 2, post, p. 689

BENGAL ACT 3 OF 1879

(THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879).

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PREAMBLE.

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- Power to make rules.
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- Penalties.
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SCHEDULE.

f 1864 and

8 of 1875.

BENGAL ACT 3 OF 1879

(THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879).1 (7th May, 1879.)

An Act to provide for the periodical inspection of steam-boliers and prime-movers attached thereto

Whereas it is expedient to provide for the periodical Preamble. inspection of steam-boilers and prime-movers attached there-* * 2; It is enacted as follows:-

1. This Act extends to the town of Calcutta, to the suburbs Extent. of Calcutta, and to Howrah as from time to time defined in the Calcutta Gazette under the provisions of any law for the time being in force.

(Commencement). Rep. by the Repealing and Amending Act, 1903, (1 of 1903), now known as the Amending Act, 1903.

vide Act 10 of 1914, Sch. II.

The Lieutenant-Governor of Bengal may, by notification Lieutenant-Governor may published in the Calcutta Gazette, extend this Act to any place extend it or district, and it shall come into force accordingly from the further. date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam-vessel in the port of Calcutta.

2. Bengal Act 6 of 1864 and Bengal Act 3 of 1875 are hereby Repeal of Ben. Acts 6 repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

3. In this Act, unless there be something repugnant in the Interpretasubject or context,-

"boiler" includes any cylinder or vessel for generating "Boiler." steam under pressure:

"prime-mover" includes any steam-engine, fly-wheel, first "Prime mover." driving shaft and pulley attached to any such engine:

"owner" includes any agent or hirer using any boiler or "Owner." prime-mover.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—side Act 10 of 1914, Sch. II.

Act 10 of 1914, Sch. II.

LEGIBLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879,
Pt. IV, page 3; for Report of Solect Committee, see bid, page 41; and for Proceedings in Council,
see bid, 1879, Supplement, pages 320, 325.

LOCAL EXTENT.—This Act extends to the town and suburbs of Calcutta and to Howrah, and
may be extended to any other place or district in Bengal—see s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts
Begulation, 1900 (10 1900), s. 4 (5), printed in Vol. I of this Code.

The words in the town and suburbs of Calcutts and in Howrah, in the title and preamble,
were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and
and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Secs. 4-7.)

Power to make rules.

- 4. The Lieutenant-Governor may from time to time make, and, when made, revoke, add to and alter, rules? for all or any of the following purposes, that is to say: -
 - (1) for appointing and, when appointed, suspending or removing inspectors under this Act:
 - (2) for determining the powers and duties of such inspectors;
 - (3) for fixing the fees payable on account of certificates granted under this Act;
 - (4) for determining the time for which certificates granted under this Act shall be in force;
 - (5) for securing the attendance of assessors and affixing a penalty for non-attendance;
 - (6) for regulating the procedure on hearing appeals:
 - (7) for carrying out the purposes of this Act.

Such rules shall be published three times in the Calcutta Gazette and shall come into operation at the date of the last publication, or at any later period mentioned in the order.

5. The owner of any boiler or prime-mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an Inspector appointed under this Act of his intention to use or continue to use the same.

The Inspector to whom such notice is given shall appoint a time, between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime-mover, and at such time shall carefully examine such boller or prime-mover, and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such inform-

ation as may reasonably be required.

Inspector may order owner to alter boiler mover.

6. If, on making the inspection, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime-mover until such alteration or addition has been made in the manner required by the Inspector, or the owner has obtained a certificate under section 9 of this Act.

7. If the Inspector is satisfied that such boiler or primemover is in good condition, and not so exposed as to be likely to be dangerous.

and, in case any alteration or addition in such boiler or prime-mover has been ordered under the last preceding section.

On notice from owner, Inspector xamine boiler or

When Inwhen an apector to grant certificate.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1922 (7 of 1912), s. S. and Sch. D. items 1 and 2, in Vol. I of this Code.

*For rules made under section 4 for Bengal, as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1842, Vol. I, Part VI.

(Secs. 8-10.)

as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the Schedule hereto annexed, on payment by the owner or person in charge of such fees as may be fixed under the rules hereinbefore mentioned:

and such certificate shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

8. Any person authorized by the Lieutenant-Governor in Revocation that behalf may revoke or suspend any certificate granted under of entificate, this Act when he has reason to believe-

(1) that such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection:

- (2) that the boiler or prime-mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate, sustained injury; or is not in good condition.
- 9. The owner of any boiler or prime-mover dissatisfied Appeal with any notice or order under sections 6, 7 or 8 of this Act refusal, may, within seven days from receipt thereof, appeal either to revocation or suspension of some person authorized by the Lieutenant-Governor in that certificate. behalf, or to some such person assisted by two experts as

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the Schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realized under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine 2 by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situated.

10. Any Inspector appointed under this Act may at any Powers of time enter into any place where he has reason to believe that a entry of Inspectors boiler or prime-mover is used, for the purpose of inspecting the same.

¹ Me w the Governor in Council of Fort Willam in Bengal-see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items I and 2, in Vol. I of this Code.
2 As to the recovery of fines, see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 26, in Vol. III of this Code.

390 THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879.

, [Ben, Act 3 of 1879.]

(Secs. 11-13.—Schedule.)

Penalties.

11. The owner or person in charge of any boiler or prime-mover who shall use, or, after conviction, continue to use, the same without a certificate duly obtained and in force in respect thereof under this Act. or having obtained a certificate shall, at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an Inspector from entering any place or building where the Inspector has reason to believe

that a boiler or prime-mover is used,

shall be punished with a fine not exceeding five hundred rupees.

Charges within what period to be brought. 12. * * * * 1 No charge at all shall be brought without the authority of an Inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

Disposal of penalties.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor² shall from time to time direct.

SCHEDULE.

(See sections 7 and 9.)

FORM OF CERTIFICATE.

Name of owner.	Description of bolier and age,	Description of prime- mover and age.	Power,	When and where made.	When and where last repaired.	Time for which certi- ficate to be in force.	RENARES.

I, the undersigned, certify that I have examined the above-named boiler (or prime-mover), and to the best of my judgment the boiler (or prime-mover), as shown in the above statement is in good condition, and is not so exposed as to be likely to be dangerous [and (in case alterations or additions have been ordered) that the alterations (or additions) required by me have been properly made].

A. B., Inspector.

¹ The words "No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the Calcutta Gazette, and," were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

2 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

BENGAL ACT 6 OF 1879

(THE DARJEELING STEAM TRAMWAY ACT)1.

(4th June, 1879.)

An Act to provide for the construction of a steam-tramway between Siliguri and Darjeeling.

Whereas a Company has been formed called the Darjeeling Preamble. Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining and working a steam-tramway from Siliguri to Darjeeling; and whereas an agreement bearing the date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose; and whereas it is expedient that the Company should be authorized to construct, maintain and work a steam-tramway upon the existing cart-road between Siliguri and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:-

1. The Act may be called the Darjeeling Steam Tramway Short title.

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903). now known as the Amending Act, 1903 vide Act 10 of 1914, Sch. II.

2. The Company may construct and maintain upon the Power to said existing cart-road between Siliguri and Darjeeling a tramtramway. way, comformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

3. The Company may, with the permission of such officer Power to as the Local Government may from time to time empower in obstruct cart road. that behalf, obstruct the said cart-road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

¹ LEGISLATIVE PAPERS.—For Proceedings in Council, see the Calcutta Gazette, 1879, Supple. ment, page 466.
LOCAL EXTENT.—This Act extends only to the Darjeeling Steam-tram way (now known as the Darjeeling-Humalayan Rail way).

BENGAL ACT 8 OF 1879

(THE BENGAL RENT SETTLEMENT ACT, 1879).

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PREAMBLE.

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- Rent to be in accordance with rates sanctioned by Revenue-authorities.
- 6. Grounds of enhancement.
- 7. Rules for determining rent recorded as demandable.

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- 9. Service of notice of enhancement.
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- 11. Procedure in suits to contest rent recorded as demandable.
- 12. Enhancement when to take effect.
- 13. Rent to hold good for ten years or until expiration of settlement.
 14. Application of Act.

BENGAL ACT 8 OF 1879

(THE BENGAL RENT SETTLEMENT ACT, 1879). 1

(4th June, 1879.)

An Act to define and limit the powers of Settlement-officers.

Whereas it is expedient to define and limit the powers of Preamble. Settlement-officers; It is enacted as follows:-

This Act extends to all the territories under the ad- Extent. ministration of the Lieutenant-Governor of Bengal.²

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. II.

- 2. (Repeal of Ben. Act 3 of 1878). Rep. by the Repealing and Amen ling Act, 1903 (1 of 1903), now known as the Amending Act. 1903-vide Act 10 of 1914, Sch. II.
 - 3. In this Act-

"Settlement-officer" means the Collector or any officer in Interpretacharge of the revenue jurisdiction of a district, and includes tion. "Settlementany Assistant Commissioner, Deputy Collector or Sub-Deputy officer. Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement:

"under-tenant" means any holder of a heritable and trans- "underferable intermediate tenure between the Government and the tenant. raiyal other than a zamindar.

1 SHOUT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1913—vide Act 10 of 1914, Sch. II.

LEMISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, p. 46; for Report or Select Committee, see ibid, page 165, and for Proceedings in Council, see ibid, 1878, Supplement, pp. 826, 938, 485.

LOCAL EXTENT.—This Act extended originally to the whole of the former Province of Bengal (see section 1), and it applies to all settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822)—in Vol. I of this Code, which were confirmed after the commencement of Ben. Act 8 of 1878 (Powers of Settlement-officers), or which were or are confirmed or sanctioned by the Revonue-authorities duly empowered (see section 14).

The Act has been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed in Vol. I of this Code) in the whole of the former Province of Bengal except "the town of Calcutta, the Division of Orissa and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of the notifications extending the Act of 1886 to such districts. Under the terms of the notifications extending the Act of 1888 to the Japaiguri District, the repeal has taken effect in that district.

The application of the Act is harred in the Chittagong Hill-tracts Regulation, 1909 (1 or 1900) section 4 (2), printed in Vol. I of this Code.

The application of the Present Presidency of Fort William in Bengal in which Ben. Act 8 of 1879 appears to be effectually in force at the present time is the Darjeeling District.

* This includes the present Presidency of Fort William in Bengal of the territory—but see the concluding clause of footnote' above.

* Now the Governor in Connoil of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 4-6.)

Rettlement. proceedings not affected by certain enactments

Rent to be in accordance with rates sanctioned by the Revenue-

Grounds of

authorities

4. Nothing contained in section 51 of Regulation 8 of 1793 or in sections 13, 14 and 17 of Act 10 of 1859, 2 ³ shall affect any settlement proceedings under Regulation 7 of 1822, or under any other law for the time being in force for the regulation of settlements of land-revenue.

5. In any such settlement-proceedings the rent recorded as demandable from each raiyat shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor.

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any raiyat having a right of occupancy than the rent which was previously paid by him, namely :-

(i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of raiyats for land of a similar description and with similar advantages in the surrounding neighbourhood:

(ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the . agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed;

(iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raiyat since the rent of the raiyat was last fixed; and that such higher rent does not bear a higher proportion to the rent of such raival as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last

(iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the raigat since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar

¹The Bengal Decennial Settlement Regulation, 1798. It is printed in Vol. I of this Code.

³The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

³The words and figures "or in sections 14, 15 and 18 of Bengal Act 5 of 1869", were repealed by the Repealing and Amending Act, 1808 (I of 1806), and are omitted.

⁴The Bengal Land-revenue Settlement Regulation, 1872. It is printed in Vol. I of this Code.

⁵For relaw stade with reference to section 5 for Bengal as constituted on the Size March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I. Pt. VI.

⁵New the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orders and Assara Laws Act, 1932 (7 of 1912), s. 2, and Solf. D, Hean 1, in Vol. I of this Code.

of 1879.)

(Secs. 7, 8.)

description and the same area according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer;

- (v) that the quantity of land held by the raight has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.
- 7. The rent recorded as demandable from an under-Rules for detenant shall be determined in accordance with the following rent recorded rules :--

- (a) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.
- (b) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the agreegate of the rents recorded as payable to him from the subordinate under-tenants and raiyats whose holdings fall within his tenure.
- (c) If the Settlement-officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than aggregate of the rents recorded as payable to him from the subordinate under-tenants and raigats whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.
- 8. When the rent demandable from any under-tenant or procedure raises is recorded at an amount below that to which the rent demandable is of such under-tenant or raigat might have been enhanced demandable is under this Act, it may be recorded that such under-tenant or which it raigat shall from time to time be liable to pay increased rent might have been enhanced from such dates as may be fixed by the Settlement-officer until ed.

(Secs. 9-12.)

the rent paid by him reaches the amount which the Settlementofficer may determine to be properly payable by him under this Act.

Service of notice of enhancement. **9.** Whenever a higher rent has been recorded as demandable from any under-tenant or *raiyat* than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the *jamabandi* or extracts therefrom, specifying in respect of each such under-tenant or *raiyat* the rent recorded as payable by him, and in the case of a *raiyat*, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jamabandi*, or of such extracts therefrom as the Collector may think fit, at the *mdl cutcherry* of the village to which the *jamabandi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jamabandi* can be inspected at the office of the Settlement-officer.

Suit to

10. Every under-tenant and raiyat shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such undertenant or raiyat to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the jamabandi, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

Procedure in suits to contest rent recorded as demandable. 11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Enhancement when to take effect.

12. If publication of the copy of a jamabandi or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

of 1879.]

Secs. 13, 14.)

13. Rent recorded as demandable under this Act, or fixed Rent to hold by a final decree in any suit as aforesaid, shall not be liable to good for ten enhancement until ten years shall have elapsed from the date expiration of on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

14. The provisions of this Act shall apply to all settlement Application of proceedings under Regulation 7 of 18221 which may have been confirmed after the commencement of Bengal Act 3 of 1878 or which may hereafter be confirmed or sanctioned by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor3, whether such proceedings shall have been commenced before or after the commencement of the said Act.

The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code
 Ben. Act 3 of 1878 was repealed by s. 2 of this Act, noted aute, p. 335
 Now the Governor in Council of Fort William in Bengal—rer the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code

BENGAL ACT 9 OF 1879

(THE COURT OF WARDS ACT, 1879).

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- Jurisdiction of Court over disqualified proprietors.
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 70. Power to Court to make rules.

BENGAL ACT 9 OF 1879

(THE COURT OF WARDS ACT, 1879)1.

(30th July, 1879.)

An Act to amend the law relating to the Court of Wards.

Whereas it is expedient to amend the law relating to the Preamble. Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengul'; It is enacted as follows :-

PART 1.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879: Short title. It extends to all the territories under the administration of Extent. the Lieutenant-Governor of Bengal, including the Scheduled

1 Limitslative Paperis.—For Statement of Objects and Reasons, see Calcutta Gasette, 1878, Pt. IV, p. 76; for Report of Select Committee, see ibid, 1879, Pt. IV, p. 31; for farther Report of Select Committee, see ibid, 1879, Pt. IV, p. 31; for farther Report of Select Committee, see ibid, 1878, Supplement, pp. 817, 313 and 402, ibid, 1879, Supplement, pp. 6, 382, 400 and 441.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see section 1; that its application is harred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Begulation, 1900 (1 of 1900), s. 4 (3), printed in Vol. I of this Code.

ANNOTATE REFRINT.—For an annotated reprint of this Act, see the Bengal Wards Manual, 1909, p. 11.

Part III of the Act is reprinted in the Sale Law Manual, 1906, pp. 122, 128.

AMENDING ACTS.—Bengal Act 3 of 1881 and Act 4 of 1892 are to be read with and taken as part of Bengal Act 9 of 1879—see Bcn. Act 3 of 1881, s. 1 post, p. 628, and Act 4 of 1892, s. 1, in Vol. I of this Code.

Other Acts as to Wards.—As to wards, see also—

Other Acts as to Wards Act, 1876 (9 of 1875), in General Acts, 1868-78, Ed. 1909, p. 477; the Guardians and Wards Act, 1890 (8 of 1890), in Gnenoral Acts, 1887-97, Ed. 1909, p. 205;

the Guardians and Wards Act, 1870 (8 of 1893), in Gueneral Acts, 1805, 160. 1805, p. 205; and the Indian Lunacy Act, 1912 (4 of 1912).

Tenance Law.—Where the Bengal Rent Act, 1859 (10 of 1859), is in force, Managers of the Court of Wards have powers of distraint thereunder—see Act 10 of 1859, a. 114, in Vol. I of this docs.

The Bengal Tenancy Act, 1886 (8 of 1885), does not affect any enactment regulating the procedure for the realisation of rents in extates under the management of the Court of Wards—see Act 3 of 1885, s. 186 (8), in Vol. I of this Code.

As to the appointment of the Court of Wards to be a Manager under the Bengal Tenancy Act, 885, see s., 95 and 97 of that Act, in Vol. I of this Code.

As to the application of the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1918), to arrears of cent or of other domands recoverable as rent, in the case of preperty under the charge of the Court of Wards, see s. 3 (8) and 8 ch. I of the former Act, in Vol. III of this Code.

FURTHER ENACTMENTS.—The Bengal Wills and Intestacy Regulation, 1799 (5 of 1799), dues.

At to the application of Ben. Act 9 of 1879 to settled estates, see the Bengal Bettled Estates

Act, 1904 (Ben. Act. 3 of 1904), ss. 44, 88, in Vol. III of this Code.

As to the application of income-tax by the Court of Wards, see the Indian Bengal and other tearstooty.

(Part I.—Preliminary.—Secs. 2, 3.)

Districts of Bengal as defined in the Scheduled Districts Act. 14 of 1874. 1874 1.

(Commencement). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

Repeal and

2. Bengal Act 4 of 1870 (the Court of Wards Act), section 11 of Act 35 of 1858, sections 12, 14 and 15 of Act 40 of 1858, and so much of section 21 of Act 40 of 1858 as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed. .

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards, as constituted by Bengal Act 4 of 1870, shall be deemed to be under the charge of the Court of Wards, as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act 35 of 18582, or under section 12, section 14 or section 21 of Act 40 of 1858. shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) 1870. be deemed to be respectively prescribed, made and executed under this Act.

And all orders and appointments made by Collectors under Act 35 of 1858 or Act 40 of 1858, and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

3. In this Act, unless there be something repugnant in the

"Collector" includes any officer in charge of the revenue-

Interpret-

"Collector."

"the Court."

jurisdiction of a district: "the Court" means the Court of Wards;

subject or context,-

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

" Estate."

"estate" means all lands which are borne on the revenueroll of a Collector as liable for the payment of one and the same demand of land-revenue [and includes a share in or of an

¹ Printed in General Acts, 1868-78, Ed. 1809, p. 441.
2 The Lunacy (District Courts) Act, 1858 It has been repealed entirely by the Indian Lunacy Act, 1912 (4 of 1912).
3 The whole of Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).
4 The remainder of s. 2 (as to pending suits and proceedings) was repealed by the Repealing and Amending Act, 1908 (1 of 1908, now known as the Amending Act, 1908—wide Act 10 of 1914, Sch. II), and is omnitted.
5 These words in square brackets in the definition of "estate" were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 2, in Vol. I of this Code.

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(Part I.—Preliminary.—Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 4-7.)

estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the Mitakshara or Mithila law]:

"minor" means a person who has not completed his age of "Minor."

twenty-one years:
 "section" means a section of this Act:

"Section."

"ward" means any person who is under the charge of the "ward." Court of Wards, or whose property is under such charge.

4. Nothing contained in this Act shall affect any of the saving of provisions of Act 34 of 1858 or the jurisdiction, as respects and of and of the saving of provisions of Act 34 of 1858 or the jurisdiction, as respects and of the saving of the saving of the saving of the provisions of Act 34 of 1858 or the jurisdiction.

infants, of any High Court of Judicature.

jurisdiction of High Court as respects infants.

PART II.

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue' shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which Constitution it may take or retain charge under this Act, or which may be and general duries of placed under its charge by order of a competent Court, in Court of accordance with the provisions of this Act.

6. Proprietors of estates shall be held disqualified to manage their own property when they are-

(a) females declared by the Court incompetent to manage Disqualified their own property;

(b) persons declared by the Court to be minors;

(c) persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs ;

(d) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property;

• [(e) persons as to whom the Local Government has declared, on their own application, that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court.]

7. Whenever the sole proprietor of an estate, or all the Jarisdiction joint proprietors of an estate, are disqualified as provided in of Court or disqualified

proprietors.

¹ The Lunacy (Supreme Courts) Act, 1858. Is, has been entirely repealed by the Indian Lunacy Act, 1912 (4 of 1912).

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

As to ascertainment of disqualification, see Part IV, post, p. 421.

Clause (a) was added to s. 6 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 3, in Vol. I of this Code.

(Part II.-Constitution, Jurisdiction and Powers of the Court of Wards .- Secs. 8-9A.)

the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprictor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor:

[Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified on his own

application under clause (e) of section 6.1

Court when bound to give up charge.

Discretion of

Court as to taking and

keeping-charge.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and

property of any disqualified proprietor,-

(a) take charge of such property without taking charge of such person;

(b) refrain from taking charge of any such person or property;

(c) at any time withdraw from such charge, if taken;

(d) at any time resume such charge, after having with drawn from it.

> 39A. (1) When the Court withdraw all withdraw from the from char shall withdraw from charge of such property,-

(a) such charge shall terminate with effect from the date fixed in accordance with the provisions of section ชี้อ์ ;

² This provise was added to a. 7 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 4, in Vol. I of this Code.

a The clauses of section 9 which were added by the Court of Wards Act (Bengal) Amendment Act, 1896 (4 f 1892), s. 6, tyrinised in Vol. I of this Code), were repealed, in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), s. 2, and, in Eastern Bengal and Assam Goort of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), s. 2, and, in Eastern Bengal and Assam Goort of Wards (Amendment) Act, 1907 (E. B. Act S of 1907), s. 2(1), and are omisted. Section. 5 of Act 4 of 1893 was, in term, repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914) s. 6, Sch. IV.

S Scotlon & was added, for Eastern Bengal, by the Bactern Bengal and Assam Geort of Wurds I mandmant) Act. 1907 (E. B. & A. Act 8 of 1907), s. 2(2), is Vol. 133 at 1820 (1868).

Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10.)

- (b) the owner of the said property shall restored to the possession thereof from the said date, subject to any contracts entered into by the Court for the preservation or benefit of such property;
- (c) the claims referred to in section 10A, section (5), shall revive, unless the Court in its discretion shall otherwise direct.
- (2) In calculating the periods of limitation applicable to suits to recover claims for interest or claims to recover and enforce debts and liabilities revived under this section, the time during which such charge has continued shall be excluded.

10. [Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards by Civil Court of Act, 1890², appointing a guardian of the person or property of a wards to take minor, or both;

whenever a Civil Court removes, under section 39 of the

same Act , the guardian of a minor,]

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or whenever a person has been adjudged, under Act 35 of 1858, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of

I The clauses in square brackets in s. 10 were substituted for the original clauses by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 6, in Vol. I of this Code.

Printed in the General Acts, 1887-97, Ed., 1909, p. 205.

Act 85 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

(Part II.-Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10A.)

Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act 35 of 1858 shall be held to apply to persons or properties under the charge of the Court of Wards

Notice to creditors.

210A. (1) Whenever the Wards assumes Court of charge of any person or property under section 7 or section 10, it shall pub'ish, in the manner provided n section 64A, a notice calling upon all creditors having claims against the ward or his immovable property to submit the same in writing to the Court, at a place to be named in the notice. within six months from the date of the publication of the notice aforesaid.

Court of Wards assumes creditors charge of any person or liabilities. section 10, it shall publish, in the manner provided in section 64A, a notice calling upon all creditors having claims against the ward or his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the aforesaid.

(2) The Court shall also make such inquiry as it thinks fit to ascertain the particulars of all claims against the word or his property, and may, for the purpose of the said inquiry. require the ward, or any person or persons who may have acted as his guardian, committee, or other legal curator before the Court assumed charge of his person or property, to file a complete statement of all debts and liabilities to which the ward is subject or with hiswh**i**ch property charged.

¹ Act 35 of 1858 has been repeated and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to ss. 78 to 81 of the latter Act—see the Tennes Act, 1807 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

This section 10A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1896), s. 8, in Vol. III of this Code.

The differences in s. 104, as in force in Western Bengal and in Eastern Bengal, respectively, the in the words printed in Italics.

This differences in s. 104, as in the section 10A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (B. B. & A. Act 8 of 1907), s. 8, in Vol. III of this Code.

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10A.)

(3) A copy of the notice published under sub-section (1) shall be sent by registered post to all creditors whose names and addresses are ascertained in the course of the inquiry made under sub-section (2).

(4) After the expiration of six months from the date of the publication of the notice specified in sub-section (1), the Court shall frame a schedule of all claims submitted under sub-section (1) or ascertained in the course of the inquiry under sub-section (2):

Provided that entry in this schedule shall not be deemed to be sufficient evidence to charge any person with liability.

(5) Every claim, other than a claim on the part of Government. not entered in the schedule framed under the preceding sub-section, shall, save in the case provided for by section 9A, sub-section (1), clause (c), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that the Court, if it thinks fit, may receive a claim at any time after the framing of the said schedule, or may refuse to receive it; and the Court may, if it receive the claim, disallow the payment of interest in whole or in part, and may impose such terms and conditions, as to the time of payment of the sum which it may find to be payable under the claim, as to the Court may seem fit.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court in compliance with the provisions of sub-section (1), shall, save in the case provided for by section 10E, subsection (2), clause (c), notwith standing any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the veriod aforesaid:

Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of subsection (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of the expiry of the period aforesaid.

Ben. Act 9

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10B.)

(6) No order of the Court preceding subunder the section, refusing to receive a claim, or disallowing interest, or imposing terms or conditions, shall be liable to be contested or set aside in any Civil Court.

reditors to arnish full articulars nd docuientr.

- 10B. (1) Every creditor submitting his claim in compliance with the provisions of section 10A, sub-section (1), shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.
- (2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.
- (3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any

- **10B.** (1) Every creditor Creditors to sumitting his claim in com- particulars pliance with the provisions of and documents. sub-section (1) or the proviso to sub-section (5) of section 10A shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control. including entries in books of account, on which he relies to support his claims, together with a true copy of every such document.
- (2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.
- (3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any

¹ This section 10B was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1806), s. 3, in Vol. III of this Code.

The differences in s. 10B as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² This section 10B was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 8, in Vol. III of this Code.

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(Part II.-Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 10C, 10D.)

suit brought by the creditor or suit brought by the creditor or by any person claiming under him in respect of such claim.

by any person claiming under him in respect of such claim, unless good cause be shown, to the satisfaction of the Civil Court entertaining the suit, for the non-production of the document as required by sub-section (1); and the Judge receiving any such document shall record his reasons , or so doing.

110C. If a Civil Court has directed any process of execution to issue against any immovable property of a Civil Courts. ward, or the rents thereof, or any crops standing thereon, the Court of Wards may, at any time within one year after it assumed 2 charge of such property, apply to the Civil Court to stay proceedings in the matter of such process; and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings for such period as it may deem fit.

Adjudication of claims

- 310D. (1) On receipt of all claims submitted in compliance with the provisions of sections 10A and 10B, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in each claimant writing to concerned.
- (2) When the Court has admitted any claim under subsection (1), it may make to the creditor a proposal in writing for the reduction of the claim,

'10D. (1) On the framing Adjudication of the schedule under section of claims 10A, sub-section (4), the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court has admitted any claim under subsection (1), or the proviso to subsection (5), it may make to the creditor a proposal in writing

¹ This section 10C was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment)
Act, 1906 (Ben. Act 1 of 1906), s. S. and, for Eastern Bengal, by the Eastern Bengal and Assam Court
of Wards (Amendment) Act, 1907 (E. B. & A. Act 3 of 1907), s. 3, in Vol. III of this Code.

*In E. B. & A. Act 3 of 1907. s. 3, the word need here is "assammes".

*This section 10D was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1908), s. 3, in Vol. III of this Code.

The differences in s. 10D, as in force in Western Bengal and in Eastern Bengal, respectively,
is in the words printed in Italics.

*This section 10D was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court
of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 8, in Vol. III of this Code.

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10D.)

or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward:

Provided that if, when the superintendence of the property by the Court is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the credit or shall be entitled to recover a sum bearing the same proportion to the original claim admitted under subsection (I) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been submitted to the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been submitted to the Court of Wards, the period from the claim up to the date of the communication of the Court's decision thereon

for the reduction of the claim or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward:

Provided that if, when the superintendence of the property by the Court is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the creditor shall be entitled to recover a sum bearing the same proportion to the original claim admitted under subsection (1) or the proviso to subsection (5) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been entered in the schedule framed under section 10A, sub-section (4):

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been entered in the schedule framed under section 10A, sub-section (4), the period from the date of submission of the claim up to the date of the communication

of 1879].

(Part II.-Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10E.)

to the creditor shall be exclud- of the Court's decision thereon ed.

to the creditor shall be excluded.

Relinquish-ment of inextricably involved estates.

110E. (1) The Court Wards may, after making an investigation under section 10D, when it appears to the Court that the estate is involved beyond all hope of extrication, or for any other sufficient reason, by notice published in the manner provided in section 64A, declare that it will, on a date to be fixed by the notice, relinquish charge of the property and person (or of the property, as the case may be) of the ward under this section.

- (2) On the date so fixed,
 - charge shall (a) such terminate.
 - (b) the owner of the said property shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property; and
 - (c) the claims for interest barred under section 10A, subsection (2), shall revive in case the debt or liability in respect of which the interest is claimed be not then barred by any law of limitation.

¹Section 10E was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 3, jn Vol. III of this Code.

(Part II.-Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 11-13.)

(3) In calculating the periods of limitation applicable to suits to recover claims for interest revived under this section, the time during which such charge has continued shall be excluded.

Procedure when any of joint proprietors ceases to be disqualified.

111. Whenever one or more of the joint proprietors of whose properties the Court has taken charge ceases to be subject to the jurisdiction of the Court, the Court may retain charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification.

And, in case any person entitled to any property jointly with any disqualified proprietor shall consent thereto, the Court may retain or resume the charge of the property of such proprietor or any part thereof so long as the property of any such disqualified proprietor as aforesaid remains in charge of the Court.

Withdrawal from charge by Court.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property 2 [which either before or after the commencement of this Act was or is placed] under the charge of the Collector by a Civil Court under section 12, section 14 or section 21 of Act 40 of 1858, or under section 11 of Act 35 of 1858, [or under any other enactment for the time being in force]5:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

Procedure when to property of ward disputed.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act 7 of 1876 or until the dispute has been determined by a competent Civil Court.

¹ This section was substituted for the original section 11 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892) s. 7, in Vol. I of this Code.

These words in square brackets were substituted for the words "which before the commencement of this Act was placed" by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), 88, in Vol. I of this Code.

3 Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).

4 The Lunacy (District Courts) Act, 1858. It has been repealed by the Indian Lunacy Act, 1876 (A of 1912).

^{1912 (4} of 1912).

These words in square brackets were added by the Court of Wards Act (Bengal) Amendment Act, 1822 (4 of 1922), s. S, in Vol. I of this Code.

The Bengal Land Registration Act, 1876. It is printed ang, p. 845.

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 13A, 14.)

property of disqualified proprietor until discharge

113A. If, when any dis-Court to retain qualified proprietor dies, or charge of ceases to be disqualified within the meaning of this Act, there remain undischarged any debts or liabilities which were incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof,

> then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged:

> Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his

representative.

14. Subject to the provisions of this Act, the Court-

(a) may, through its manager, do all such things requisite powers of Court. for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal

guardian of such ward.

13A. If, when any dis- Power of qualified proprietor whose Court to property has been taken of property charge of by the Court dies, or disqualifies ceases to be disqualified within proprietor until dische the meaning of this Act, there of debts. remain undischarged any debts or liabilities which incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof,

then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been

discharged :

Provided that, after the death of such proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his ropresentative.

General

¹ This section 18A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 4, in Vol. III of this Code.

The differences in s. 18A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

2 This section 18A was inserted for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 5, in Vol. III of this Code.

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 15-20.)

Exercis through of powers conferred on Court.

Delegation

Katablishments and expenses.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time, with the like sanction, revoke such delegation.

- 16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act; and may order that such expenses, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are. or have been, entertained or such expenses have been incurred.
- 17. (General contribution for general purposes). Rep. by the Government Management of Private Estates Act, 1892 (10 of 1892), s. 9.

Power to property.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

When Court may order property to be separate

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate; and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor1, may direct.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed.

ppointment

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code

³ This section was substituted for the original section 16 by the Bengal Court of Wards

(3. mendment) Act, 1881 (Ben. Act 8 of 1881), s. 3, post p. 623. The original section ran thus:—

"16. The Court may from time to time order such establishments to be entertained and expenses to be isourred, as it shall consider requisite for the care and management of the persons and proporties under its charge, for superintendence, for the audit of accounts, and generally for all management of the Act.

purposes of this Act,

and may order that the cost of any such establishment and any such expenses be charged against
any one or more properties for the purposes of which they are antertained as interest?

of (879.)

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Part III.—Protection from Sale of certain Estates.—Secs. 21-23.)

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

21. The Court may make such orders as to it may seem fit Control, in respect of the custody, education and residence of a minor residence of ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

22. The Court shall allow, for the support of each ward Allowance for and of his family such monthly sum as it thinks fit (if any) ward and his family. with regard to the rank and circumstances of the parties.

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

23. Clause 1.—Except as hereinafter provided by Estate under section 23A, every estate, and, subject to the provisions of court exempt section 14 of Act 11 of 18592, every share or part of an estate from sale. for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act 7 of 18763, shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate. share or part has been under the charge of the Court:

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

Clause 2.—If at the time when such estate, share or part Recovery of ceases to be under the charge of the Court of Wards, an arrear of revenue is due on account thereof, the Collector may attach such estate, share or part and collect the rent, cesses to be under and other demands due, and all arrears thereof, managing such charge

¹ These sections 28 and 23A were substituted for the original section 28 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 4, post. p. 628. The original section ran

^{*23.} Every estate, and, subject to the provisions of section 14 of Act 11 of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 1Pof the said Act, or under section 70 of Bengal Act 7 of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

"Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge."

The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

The Land Registration Act, 1876. It is printed aste, p. 846.

(Part III.—Protection from Sale of certain Estates.— Secs. 23A-25.)

estate, share or part either directly or through a manager, or by farming it for a period not exceeding five years, as he may think fit:

Provided that, when such estate, share or part has been attached under the provisions of this clause, the proceeds shall be paid to the Collector; and the Collector, after deducting the claims of Government for revenue and other public demands, together with any interest which has accrued upon such public demands other than Government revenue, and the charges of management due up to the date of making such deduction, shall release such estate, share or part from attachment, and pay any balance of the proceeds still remaining in his hands to the proprietor of such estate, share or part or to his duly constituted agent, and shall furnish such proprietor or agent with an account of the receipts and expenditure extending over the time when such estate, share or part was under attachment.

Conditions ander which state may be sold for arrear of revenue socraed under Court, 123A. Notwithstanding anything in clause 5, section 8, Regulation 1 of 1793, or in section 23 of this Act, contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time be sold under the provisions of the law for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that sach estate, share or part be so sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.

Restriction on sale for arrears of revenue of estate belonging to minor. 24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

Power of Collector to attach such

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

Section 24 not to apply unless notice given. 25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written

See foot-note ¹ on page 419, ante.
 She Bengal Permanent Settlement Regulation, 1798. It is printed in Vol. I of this Code.
 See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1918), in Vol. III of this Code.

of 1879.]

(Part III.—Protection from the Sale of certain Estates.— Part IV.—Ascertainment of Disqualification.—Secs. 26-29.)

notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

26. When an estate has been farmed under the provisions Application of section 24, the proceeds of such farm shall be paid to the of proceeds of estate the Collector; and the Collector, after deducting the amount of farmed under the claims of the Government for revenue and other public meetion 24. demands, and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any Procedure for person residing in his district, or being the proprietor of an ascertaining estate borne on the revenue-roll of his district, should be disqualificadeclared or adjudged to be a disqualified proprietor under tion. section 6, he shall make such inquiry as he may deem necessary; and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Nothing in section 27 shall prevent the Court or the Power to Local Government from putting the provisions of this Act coversor the Calleston visions of in force without any report from the Collector.

29. Whenever any Collector receives information that Powers of the sole prorpietor of an estate which is borne on the revenueof his district has died,
or that the sole proprietor of any estate has died within his
original. roll of his district has died,

district,

and such Collector has reason to believe that the heirs of clared such proprietor should be declared or adjudged to be disquali-disqualified. fled under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable property, or any such deeds, documents or papers may be, to take charge of the same; and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector.

Act without report. should be de-

(Part IV.—Ascertainment of Disqualification.—Secs. 30-33.)

Recovery of expenses if property is nder charge of Court.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act 7 of 1868,1 or any similar law for the time being in force.

Production of minor proprie-tor, and order for his temporary custody.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed; and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

Application to Civil Court in case of lunstics

31. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Coffector as the Court may appoint, to apply, in pursuance of the provisions of Act 35 of 1858,3 to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

Application to Civil Court to make inquiry regard-ing disquali-fication on ground of physical defect or infirmity.

If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall inquire into and determine the question as to the alleged incapacity.

33. If a sole proprietor of an estate, who is resident within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal 4, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind,

Similar application when proprietor resides within original jurisdiction of High Court or beyond Bengal.

¹ The Bengal Land-revenue Sales Act, 1868. It is printed aute, p. 167.

² See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of

1. The Bengal Land-revenue Sales Act, 1868. It is printed aute, p. 167.

2. See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of

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4. See now the Bengal Public Demands Recovery Rec

this Code.

Act 28 of 1858 has been repealed and re-enacted by the Indian Lunscy Act, 1912 (4 of 1912), and this agreence should now be construed as a reference to the latter Act—ser the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

This includes the meannt Presidency of Fort William in Bennel and other territory.

1879.

. (Part IV.—Ascertainment of Disqualification.—Secs. 34, 34A.)

the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Parganas, or to such other Civil Court as the Lieutenant-Governor,¹ on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon inquire into and determine

the question as to the alleged incapacity.

34. When any inquiry is instituted by a Civil Court under Powers and section 32 or section 33, such Court shall, for the purposes of duties of Courts when making such inquiry, have the powers conferred, and proceed in the manner prescribed, by Act 35 of 1858 with respect to indersection ago or 38. the inquiries directed to be made by the said Act.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry; and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act 35 of 1858, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

Recovery of expenses incurred by under sections 31 to 33.

434A. All expenses incurred by a Collector in taking under section 31, action section 32 or section 33 in respect of any person shall, if the property of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in posession of such property, under the procedure provided by the Public Demands Recovery Act. 1895, for the recorery of public demands.

⁶ 34A. All expenses incurred by a Collector in taking action under section section 32 or section 33 in incurred by respect of any person shall, if the property of such person be 81 to 88. not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, as if it were an arrear of land-revenue!

31, Recovery of expens Collecto

Ben. Act 1 of 1895.

¹ Now the (lovernor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items I and 2, in Vol. I of this Code.

3 Act 35 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

3 This reference should now be construed as a reference to s. 82 of the Indian Lunacy Act, 1912

⁽⁴ of 1912).

4 This section 84A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 5, in Vol. 111 of this Code.

The differences in section 84A, as in force in Western Bengal and in Eastern Bengal, respectively,

The differences in section of A. as in 100c in weatern Bengal and in Lastern Bengal, respectively, lie in the words printed in italics.

Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Acct, 1918 (Ben. Act 3 of 1913), and this reference should now be construed as a reference to the laster Act—see the Bengal General Clauses Act. 1899 (Ben. Act 1 of 1899), a. 10, in Vol. 111 of this

This section 34A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1807 (E. B. and A. Act 8 of 1807), a. 7, in Vol. III of this Code.

(Part V.—Procedure after Ascertainment of Disqualification.
—Part VI.—Management and Guardianship.—Secs. 35-38.)

PART V.

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.

Order declaring person or property to be under charge of Court. **35.** Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court; and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector to take possession of movable property. 36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

Additional powers of Collector. 37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him:

and may order any person to deliver up any accounts, papers or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

Collector when to be geemed manager. 38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.*

of 1875.]

(Part VI.-Management and Guardianship.-Secs. 39-13.)

39. Every manager appointed by the Court shall have Powers of power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor:

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property 1.

40. Every manager shall manage the properly committed General daties to him diligently and faithfully for the benefit of the proprietor, and shall, in every respect, act to the best of his judgment for the ward's interest as if the property were his own.

41. Every manager appointed by the Court shall—

Specific duties of manager.

(a) have the care of so much of the property of the ward as the Court may direct;

(b) give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property:

(c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;

(d) pass his accounts at such periods and in such forms as the Court may direct;

(e) pay the balance due from him thereon;

(f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court:

(g) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;

(h) be entitled to such allowance, to be paid out of the property, as the Court may think fit, for his care and pains in the execution of his duties;

(i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. A guardian appointed to the care of a ward shall be General detailed charged with the custody of the ward, and must look to his of guardian. maintenance, health, and, if he be a minor, to his education.

43. Every guardian appointed by the Court shall-

(a) give such security (if any) as the Court thinks fit, to quardian. the Collector for the due performance of his duty;

(b) pass his accounts at such periods and in such form as the Court may direct;

¹ As to the grant by the Court of Wards of lesses of shotsoil lands, see the Bengal Ohntwali Lands Act, 1869 (5 of 1869), in Vol. I of this Gods.

As to the right of a manager, appointed by the Court of Wards, to vote for the adoption of a scheme for the reclamation or improvement of lands under the Bengal Drainage Act, 1869 (Benga Act 6 of 1880), see s. 16 (2) of that Ack post, p. 497.

(Part VI.-Management and Guardianship.-Secs. 44-48).

- (c) pay the balance due from him thereon;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;
- (f) be entitled to such allowance, to be paid out of the property of the ward, as the Court may think fit, for his care and pains in the execution of the duties.

Exclusion of certain interested persons from guardianship.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian;

but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

Who to be guardian of female ward.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

Recovery of sums due to the Court. 46. Every sum due to the Court from a manager or guardian or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act 7 of 1868 or any similar law for the time being in force.

Court may order guardian or manager to make over property.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Application of moneys received by manager.

*48. All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may from time to time give in that behalf.

Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included under Class I over those included in Class II, and priority shall be given to the purposes included in Class II over those included in Class III.

¹ The Bengal Land-revenue Sales Act, 1866. It is printed ante, p. 167.

*See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1913), in Vol. III of this Code.

this Code.

This section was substituted for the original section 48 by the Bengal Court of Warda (Athendment) Act, 1881 (Ben. Act 3 of 1881), s. 5, post, p. 628.

of 1879.] .

(Part VI.—Management and Guardianship.—Sec. 48.)

CLASS I.

The payment of all charges necessary for the maintenance, education and religious observances of the ward and his family,

for the management and supervision of the property of the ward.

and the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

CLASS II.

The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward,

the liquidation of debts payable by the ward,

the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise.

the maintenance in an efficient condition of the estates. buildings and other immovable property belonging to the ward, and

the payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid.

CLASS III.

The improvement of the land and property of the wards and the benefit of the ward and his property generally:

249. If the ward is a female of sound mind, who has Disposal of completed her age of twenty-one years, or a male who has moneys. completed his age of twenty-one years, whose property '[is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11], no part of the surplus

¹ The proviso was repealed by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 9, and is omitted.

9 This section was substituted for the original section 49 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 5, post, p. 628.

As to the application of section 49, see also section 26, caste, p. 421.

1 These words in square brackets in a. 49 were substituted for the words "remains under the charge of the Court with his consent under section 11" by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), a. 10, in Vol. I of this Code.

(Part VI.-Munagement und Guardianship -Secs. 49, 50.)

mentioned in the proviso 1 to the section immediately preceding shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid.

Any portion of such surplus remaining, after provision has been made for such purposes, shall be paid to such ward:

Provided that, before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain-

- (1) as a working balance for the management of the property and expenses incidental thereto;
- (2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years.

Power to

*50. If the ward is not a female or "[male] as aforesaid, and if any surplus remains after providing, so far as the Court may think fit, for the objects mentioned in frection 48], the same shall be applied in the purchase of other landed property, or invested at interest on the security of-

promissory notes, debentures, stock and other securities of the Government of India or of the United Kingdom of Great Britain and Ireland:

bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India:

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council:

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India: or

such other securities, stocks or shares, guaranteed by the Government of India or the Government of Bengal, as to the Court shall seem fit; *for,

mortgages on immovable property].

¹ The proviso (an thus :-

The proviso can thus.

"Provided that the amount expended for such improvement and benefit in any one year shall not exceed the per centum of the surplus which the accounts of the previous year may show to have been available after paying or making provision for the payment of all expenses incurred up to the end of such previous year, unless, in the opinion of the Court and of the Lieutenant-Governor, it is desirable for the prefection or in the interests of the ward or his property to expend an athount exceeding such percentage.

As to the application of s. 50, sec also s. 26, onte, p. 421.

The word "male", in s. 50, was substituted for the word "person" by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 6, post, p. 628.

The word and figures "section 48", in s. 50, were substituted for the word and figures "section 42" by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 6, post, p. 638.

These words in square brackets were saided, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1891 (Ben. Act 2 of 1900), s. 2, (in Vel. III of this Code), and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1991 (B. B. and A. Act 3 of 1911), s. 2. The former Act has been extended to Eastern Bengal by the Bengal Laws 4.00 (Ben. Act I of 1914), s. 3. The former Act has been extended to Eastern Bengal by the Bengal Laws 4.00 (Ben. Act I of 1914), s. 3. Sch. 1, and the latter Act has been repealed by the same Latter & Eastern Bengal Laws 4.00 (Ben. Act I of 1914), s. 5. Sch. 1, and the latter Act has been repealed by the same Act, s. 6, Sch. IV.

of 1879.]

(Part VII.—Suits.—Secs. 51-56.)

PART VII.

BUITS.

51. In every suit brought by or against any ward he shall Managers be therein described as a ward of Court; and the manager of be next friend such ward's property, or, if there is no manager, the Collector or guardian in of the district in which the greater part of such property is against ward. situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward; and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

52. The Court of Wards may, by an order, nominate or Power of substitute any other person to be next friend or guardian for Wards to any such suit; and, upon receiving a copy of any such order nominate of substitution, the Civil Court in which such suit is pending person to be shall substitute the name of the next friend or guardian for the next friend suit so appointed for the name of the manager or Collector.

53. If in any such suit any Civil Court shall decree any Payment of costs against the next friend or guardian for the suit of the costs. ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

54. Every process which may be issued out of any Civil service of Court against any ward shall be served, through the Collector, process against wards. upon the next friend or guardian for the suit as aforesaid of such ward.

55. No suit shall be brought on behalf of any ward 1 [by suits not to a manager], unless the same be authorized by some order of the behalf of Court :

wards unless authorized by

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation; but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

56. Nothing contained in this Part shall apply to any suit saving of suits in High instituted or pending in the High Court * *

Court.

¹ The words "by a manager", in s. 55, were inserted by the Bengal Court of Wards [Amend-ment) Act, 1841 (Ben, Act 8 of 1881), s. 7, post, p. 628.

2 The words "or to a proprietor whose property is under the charge of the Court under clause (e) of acction 6 or under the second clause of section 11." in s. 56, as amended by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 11, were repealed in Western Bengal, by the Bengal Gourt of Wards (Amendment) Act, 1806 (Ben. Act i of 1806), s. 6, and, in Eastern Bengal, by the Bengal Bengal and Access Court of Wards (Amendment) Act 1807 [8 B. and A. Act 8 of 1875), 8, and are omitted. "Sec. 11 of Act 4 of 1802 was, in turn, repealed by the Bengal Laws Act, 1814 (Ben. Act 4 of 1814), s. 6, 8ch. IV.

[Ben. Act 9

(Part VIII.—Penalties.—Secs. 57-58A.)

PART VIII.

PENALTIES.

For disobeying certain orders of Collector. For disobey-

ing orders

under section

57. Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order 1 of the Collector, to a fine not exceeding five hundred rupees.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with:

²[Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order of release, and direct that effect shall be given to the previous order of imprisonment.]

Penalty on farmer neg-lecting to furnish ac-

*58A. Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission; and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family; or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person; and, in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may

direct;

^{. 1} A formal record must be made when an order is passed under s. 57 or s. 58—ses s. 64, post, p. 482.
§ This provise was added to s. 58 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 8, post, p. 628.
§ Regtion 584 was inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 2 of 1881), s. 9, post, p. 628.

of 1879.]

(Part VIII.—Penalties.—Part IX.—Miscellaneous.—Secs. 59-60B.)

and the date fixed by such notice shall not be less than

fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under such order shall have exceeded five hundered rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner.

59. Any person who disobeys any lawful order of the Fordisobey-Court shall be liable, on conviction before a Magistrate, to a figoreter of Court. fine not exceeding five hundred rupees and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

159A. Every person employed by the Court under this Act Persons shall, for the purposes of the Indian Penal Code, be deemed to employed by be a public servant.

L6 of 1860

public servants."

PART 1X.

MISCELLANEOUS.

60. No ward shall be competent to create, without the Disabilities sanction of the Court, any charge upon, or interest in, his property or any part thereof, ³[or to assign over or charge any allowance to be received by him from the Court].

60A. No property which is or has been under the charge Exemption of the Court shall be liable at any time, except with the leave of of wards the Court, to be taken in execution of a decree made in respect property from of any contract entered into by the ward without the leave of proceedings in certain the Court while his property was under such charge.

60B. For the purposes of Part VII and sections 60 and Certain 60A, a person whose property is under the charge of the Court bedeemed of Wards by virtue of the second clause of section 11, or charge to be wards.

¹ Section 59A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment Act, 1906 (Ben. Act 1 of 1996), s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 9, in Vol. III of this Code.

2 Printed in the General Acts, 1894-67, Ed. 1909, p. 248.

3 These words in square brackets were added to section 60 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 12, in Vol. I of this Code.

4 Section 60A was inserted by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 13, in Vol. I of this Code.

5 Section 60B was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 8, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 8, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 10, in Vol. III of this Code.

(Part X.-Miscellaneous.-Secs. 61-64A.)

of whose property has been retained under section 13A, shall be deemed to be a "ward," but only so far as regards such

property. Adoption by ward invalid

- 61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without consent of Lieutenant the consent of the Lieutenant-Gevernor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.
 - 62. (Sections 60 and 61 not to apply in certain cases). Rep., in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 9, and, in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 11.

63. (Arrears of rent how recoverable). Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

Recovery of arrears of rehi.

reasons when penalty im-

posed under section 57 or

Publication of notices.

without

(lovernor.

263. Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force; and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof.

164A. Any notice required to be published by the provisions of sub-section (1) of section 10A, or of sub-section (1) of section 10K, shall be pub-

'64A. Any notice required Publication to be published by the provi- of notices. sions of sub-section (1) of section 10A shall be published-

lishedthe Calcutta

⁴ [(a) in 4 [(a) in the Calcutta Gazette;] Gazette:]

^{*}Now the Governor in Council for Fort William in Bengal—we the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items 1 and 2, in Vol. I of this Code.

*This section 68 was enacted by the Bengal Court of Wasks (Assaudment) Act, 1881 (Ben. Ace 8 of 1881), s. 16, gost, D. 624.

*This section 64 was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 16, in Vol. III of this Code.

*The differences in section 64A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in itselfes.

*This clause for was substituted for the original clause (a), by the Bengal Laws Act, 1814 (Ben. Act 1 of 1914), s. 5, Sch. III, in Vol. III of this Code.

*This section 64A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Arsegduent) Act, 1907 (E. D. gad A. Act 8 of 1897), s. 12, in Vol. III of this Code.

(Part IX,-Miscelly neous,-Secs. 65, 65A.)

- (b) in at least three issues each of one English and one Vernacular newspaper published in Calcutta :
- (c) in two issues of a newspaper (if any) published in the district or Division in which the ward ordinarily resides, or has last resided: and
- (d) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate.

- (h) for such period as the Court shall think fit. in the following newspapers :--
 - (i) a newspaper, if any, published in the district or Division in which the ward ordinarily resides, or has last resided.
 - (ii) two newspapers published in Dacca,
 - (iii) three daily newspapers ;
- (c) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate;
- (d) by beat of drum in village in which the ward ordinarily resides or has last resided; and
- (e) in such other ways, if any, as the Court may, by rule, direct.

65. Whenever the Court has determined to release the Proceedings property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on ceases. a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

1 265A. Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered

GBA. Any expense in Recovery of curred by the Court on account expenses after release of of any property under its property. charge may, after the release of such property, be recovered

Recovery of expenses after release of property.

¹ Section 65A was inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben.

Act 8 of 1841) a 11; post p. 624:

Section 63A is in force in this form in Wastern Bengal.

The difference in section 63A as in force in Wastern Hengal and in Hustern Bengal respectively, lies in the world printed in itsies.

(Part IX.-Miscellaneous.-Secs. 66-70.)

as a demand, under Bengal Act 7 of 18801 or any other Act 2 at the time being in force for the recovery of public demands, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

'(as if it were an arrear of land-revenue or) as a demand, under Bengal Act 7 of 18801 or any other Act at the time being in force for the recovery of public demands, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

66. A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

Control by Court.

Judicial

powers of Collector

in making

inquiries.

Appeals.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court; and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise.

Control by Lieutenant-Governor.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

Power to Court to make rules. 70. The Court may make rules, consistent with this Act,-

(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more Divisions:

¹ Ben. Act 7 of 1880 was repealed by the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), which, again, has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1913), printed in Vol. III of this Code.

² Seg now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

³ These words in italics in s. 66A were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 18, in Vol. III of this Code.

this Code.

4 Act 10 of 1877 was repealed and re-enacted by Act 14 of 1882, which again has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference abould now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, 8d. 1909, p. 184.

5 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

6 For rules made under section 70 for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1879.]

(Part IX.-Miscellaneous.-Sec. 70.)

(b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

(c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

(d) regulating the custody of securities and title deeds belonging to the estate or property of a ward;

(e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act:

(f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court; and

(g) generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to or repeal such rules.

BENGAL ACT 1 OF 1880

(THE CALCUTTA TRAMWAYS ACT, 1880).

CONTENTS.

PREAMBLE.

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- 3. Transways may be made in accordance with the agreement between the Corporation and the grantees.
- Application of Act to suburban transways.
- Form in which tramways are to be constructed and maintained. No tramway to be opened without certificate from Engineer.
- Carriages how to be worked. Grantees may use tramway carriages with flange wheels.
- Grantees may fix and demand fares.
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- 11.
- 12. Power to break up streets.
- Grantees to keep the trainway roads in proper repair. Grantees not to be obstruct ordinary traffic. 13.
- 1ő. Reservation of right of public to use roads.
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- Penalty for failure of grantees to comply with provisions of this Act. 18.
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- 20.
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- 23.
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- The grantees may make certain regulations.
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- Power to Corporation to license drivers, conductors, etc. 26.
- frantees to be responsible for all damages.

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- 29. Reservation of power over roads.
- 30. Corporation to have right of purchasing trainways after twenty-one years.

SCHEDULE.

BENGAL ACT 1 OF 1880

(THE CALCUTTA TRAMWAYS ACT, 1880).1

(3rd March. 1000.)

An Act to authorize the making and to regulate the working. of Street Tramways in Calcutta.

Whereas the Corporation of the town of Calcutta, herein-Preamble. after called the Corporaton, by an agreement dated the 2nd day of October, 1879, for the considerations therein expressed. granted to Dillwyn Parrish, Alfred Parrish and Robinson Souttar and their assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Calcutta upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the Schedule to this Act, which said agreement had, on the twenty-fifth day of August, 1879, received the sanction of the Lieutenant-Governor of Bengal;

and whereas the grantees are desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved;

and whereas the objects of this Act cannot be attained without the authority of the Legislature;

It is hereby enacted as follows:-

1. This Act may be called the Calcutta Tramways Act, Short title. 1880:

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. II.

2. In this Act, unless there be something repugnant in the Mesning of subject or context, "tramway" means a tramway constructed "tramway." under this Act.

3. Subject to the provisions of this Act, and of the said Tramways agreement, the grantees may make and maintain in Calcutta a in accordance tramway or tramways, with single or double lines, and with all with the necessary sidings, turnouts, connections and lines (but in the between the

¹ Legislative Papers.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, and the Pt. IV, p. 105; for Report of Select Committee, see ibid, 1880, Pt. IV, p. 1; and for Proceedings in grantees. Council, see ibid, 1879, Supplement, p. 1445; ibid, 1880, Supplement, p. 55.

LOCAL EXTENT.—This Act extends only to Calcutta and its Suburbs—see ss. 8, 4, on this page

LOCAL EXTENT.—This Act extenss only to Calcutta and its Subirds—see as. 3, 4, on this page and the next page.

CONTROL BY LOCAL GOVERNMENT.—As to the control of the Local Government over transvays constructed in those portions of Calcutts which are not subject to the authority of the Corporation of Calcutta, see the Calcutta Tram ways (Amendment) Act, 1884 (Ben. Act 2 of 1884)—post, D. 591. That Act is to be read with and taken as part of the present Act—see s. 1 thereof, post. p. 691.

(Sec. 4.)

case of sidings and turnouts only in such places as the Corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned by the Lieutenant-Governor:—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1. commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Transway No 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3. passing along Bow Bazar Street, Lall Bazar Street and Dalhousic Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street and passing along Strand Road to Somerset Buildings, where it terminates,

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street, and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the Circular tramway at Koila Ghât Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringbee and joining tramway No. 5 at Dhurrumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places:—

In tramway No. 1, Colootollah Street.

Ditto ... 2. the whole.
Ditto ... 6. Elliott's Road.
Ditto ... 7. the connecting line.

Application of Act to Suburban tramways. 4. In the event of any other tramway or tramways on other routes in Calcutta or in the Suburbs of Calcutta, being

¹ For a list of orders made under section 2, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

8 Now the Guironro in Council of Fort William in Bengal—see the Bengal, Bihar and Orbeas, and Asama Lawa Act, 1912 (7 of 1912), a. 3, and Sch. D. item 5, in Vol. 1. of this Code.

9 Many of the suburbs are now amaganated with Calcutta for minicipal particised—see the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), s. 3 (7), in Vol. III of this Code.

(Secs. 5-8.)

from time to time approved by the Corporation or the Munipal Commissioners for the said Suburbs as the case may be. and sanctioned by Government and undertaken by the grantees. notice1 thereof specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published in Calcutta Gazette:

and, upon such publication, all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or trainways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particulary specified in this Act and as if the agreement, if any, in reference thereto had been included in the Schedule to this Act.

5. Every tramway shall be constructed on the metre- Form in gauge of 3 feet 3% inches, or on such other gauge not exceeding which train 4 feet 8½ inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such tained. manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

6. No tramway shall be opened for public traffic until the No tramway same has been inspected and certified by the Engineer to the without per-Corporation to be fit for such traffic.

7. The cars and carriages of the grantees on the lines of Engineer. the tramways shall be worked with such power, animal or bow to be mechanical, as the grantees may think suitable:

Provided that no steam-carriages shall be used without the special consent of the Corporation, to be obtained in special general meeting of the Commissioners, and without the sanction of the Lieutenant-Governor.

8. The grantees may use on their tramways carriages with Grantees may flange wheels or wheels suitable only to run on a grooved rail. use trails carriage and subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

¹As to the validation of defects in publication of notices under this section, see the Calcutta Tramways. (Amendment) Act, 1884 (Bon. Act 2 of 1884), s. 5, post, p. 692.

² For notifications issued under section 4, see the Bengal-Local Statutory Rules and Orders, 1982.

Vol. 1, Pt. VI.

Flow the Governor in Council of Fort William in Bengal—see the Bengal, Biliur and Orisea and Assam Laws Act, 1912 (7 of 1812), s. 8, and Sob. D, item 1, in Vol. I of this Code.

(Secs. 9-12.)

Frantees may ix and denand fares. 9. The grantees shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their trainways, or for the carriage of goods by their trainways:

Provided that the rate of fare for each person or parcel shall, for any distance not exceeding three miles, not exceed three annas, and for any greater distance shall not exceed the

same proportion.

Printed list of fares, etc., to be placed in carriages. 10. A printed list, in English, Bengali and Urdu, of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways.

Such list and printed copy as aforesaid shall be published in

the Calcutta Gazette at the expense of the grantees.

Fares how to

11. The fares and charges by this Act authorized shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by notice to be annexed to the list of fares, from time to time appoint.

Power to break up streets. 12. The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets, as defined by Bengal Act 4 of 1876 (the Calcutta Municipal Consolidation Act)¹, and bridges in the town of Calcutta, and therein lay sleepers and rails and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways subject to the following regulations:—

1st.—They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

¹ Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which, again, has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Bed. Act 3 of 1899), printed in Vol. III of this Code. The reference in the text should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

of :1860.]:

(Secs. 13-16.)

3rd.—They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a

quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watch-

ed, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals by the disturbance thereof.

7th.—If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply

shall be so interrupted.

13. The grantees shall, at their own expense, at all times Grantees to maintain and keep in good condition and repair, in such man-keep th ner as the Corporation shall direct, the rails of which any of road in their tramways shall for the time being consist, and so much proper repair. of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

14. In exercising the powers given to them by the last two grantees not preceding sections, the grantees shall arrange their work so as to obstruct ordinary to afford the least possible obstruction to the ordinary traffic of traffic. the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lampholes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

15. Nothing in this Act. or in any by-law made under this Reservation Act, shall take away or abridge the right of the public to pass of right of along or across every or any part of any road along or across roads.

which any tramway is laid, whether on or off the tramway. with carriages not having flange wheels or wheels suitable to run on a grooved rail.

16. Nothing In this Act, or in any by-law made under this Saving of Port Commis-Act, shall interfere with the right of the Port Commissioners, alones' trans-

(Secs. 17-21.)

or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Right of user only.

17. Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Penalty for failure of grantees to comply with provisions of this Act. 18. If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding tifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing grantees in the exercise of their power. 19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty-rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

- 20. If any person without lawful excuse (the proof where of shall lie on him) wilfully does any of the following things namely:—
- interferes with, removes or alters any part of a trainway of the grantees, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare. 21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any porson knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fair to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

of 1860.]

(Secs. 22-25.)

22. It shall be lawful for any servant of the grantees, Servant of and all persons called in by him for his assistance, to arrest persons arrest and take to the nearest police-station any person avoiding who shall be discovered either in or after committing or lare. attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer, in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

23. No person shall be entitled to carry or to require to be Carriage of carried on any tramway any goods which may be of a dangerous offensive or offensive nature, and, if any person send by any tramway goods. any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

24. The Corporation in special general meeting may, By-laws by subject to confirmation thereof by the Lieutenant-Governor, Corporation. from time to time make such regulation as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act.

The grantees may, subject to confirmation as aforesaid, from The grantees time to time make such regulations 2-

may make certain regu-

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and

for regulating the travelling in or upon any carriage belonging to them,

as are not inconsistent with this Act.

Notice of the making of any such by-laws shall be published by the Corporation in the Calcutta Gazette.

25. Any person offending against any by-law made under Penalty for the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such by-laws as a penalty for such offcence.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Biharand Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., item 1, in Vol. I of this Code.

² For regulations under s. 24, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Stc. Read regulations.

⁴ Sic. Bead regulation.

(Secs. 26-29.)

Power to Corporation to license drivers, conductors. etc.

26. The Corporation shall have the like power of making and enforcing rules and regulations 1 and of granting licenses with respect to all drivers, conductors and other persons having charge of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of backney-carriages and other persons having charge thereof.2

Grantees to be responsible for all damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default. or through the act or default of any person in their employ-ment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Corporation and police to regulate traffic on roads.

28. Nothing in this act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads

29. Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company, Limited, in the exercise of the powers conferred upon them under Act 5 of 18573 from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up. widen, alter, divert or improve the same:

Provided.

- (1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit:
- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees;
- (3) that before they commence any work, whereby the traffic on the tramways will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such

¹ For rules made under section 26, see the Bengal Local Statutory Rules and Orders, 1912, ² For the law as to hackney-carriages, see the Calcutta Hackney-carriage Act, 1891 (Ben. Act 3 of 1891), in Vol. III of this Code.

A Act 5 of 1887 is an Act of a private character, and is therefore not printed in this Code.

of 4550.] ·

(Sec. 30, Schedule.)

notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road' over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantees:

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Cor-

poration.

30. The Corporation shall have the right of purchasing Corporation the tramways with the plant, buildings, stores, rolling-stock to have right of purchasing and everything connected therewith upon the expiration of tramways twenty-one years from the commencement of this Act, upon after twenty-one years, declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given;

and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven per cent. per annum

on the amount of the said invested capital;

and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways, which shall have been purchased from them.

SCHEDULE.

Articles of Agreement 1 made this second day of October, 1879, between the Corporation of the Town of Calcutta incorporated under Act 4 of 1876 of the Lieutenant-Governor of Bengal in Council hereinafter called the said Corporation on

^{&#}x27;Further agreements are appended to the Calcutta Tramways Act, 1894 (Ben. Act 8 of 1894); and the Calcutta Tramways (Electric Traction) Act, 1900 (Ben. Act 4 of 1900), printed in Vol. III of this Code.

Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), printed in Vol. III of this Code.

the one part, and Dillwyn Parrish and Alfred Parrish, both of London, and Robinson Souttar, of Liverpool, hereinafter called the said grantees of the other part. Whereas the said Corporation have, subject to confirmation thereof by the Government of Bengal, and to the recognition of this agreement by an Act of the Bengal Legislature, agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Calcutta, upon the terms and conditions hereinafter contained, now these presents witness that, in consideration of the covenants and agreements bereinafter contained and on the part of the said Corporation to be performed, the said grantees for themselves, their heirs, executors, administrators and assigns do, and each of them for himself, his heirs, executors, administrators and assigns doth, convenant with the said Corporation, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators and assigns, and the said Corporation, for and in consideration of the covenants and agreements bereinafter contained and on the part of the said grantees and their heirs, executors, administrators, and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Corporation in manner following, that is to Say :-

1. The said Corporation grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantees," the right to construct, maintain and use a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts, connections and lines of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said grantees (but in the case of sidings and turnouts only in such places as the said Corporation may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Corporation:—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

. 3rd.—Tramway No. 2. passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lall Bezar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4. commencing near Sobha Bazar Street, and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghât Street.

7th.—Tramway No 6, commencing in the Circular Road at the end of Elliott's Road and along Elliott's Road and Wellesley Street and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurrumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2.

No. 2:
Provided that without the special sanction of the Corporation (Commissioners in special general meeting) there shall not be a double line in the following places:—

In tramway No. 1, Colootollah Street.

Ditto ... 2, the whole.
Ditto ... 6, Efficit's Road.
Ditto ... 7, the connecting line.

These lines are particularly delineated on a plan accompanying this agreement, and signed by the Engineer to the Corporation and one of the said grantees.

2. The said grantees shall, moreover (subject to clauses 3 and 4), have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality on the terms contained in these presents:

Provided always that if the said grantees shall at any time or times refuse or neglect for three months to accept any proposal by the said Corporation for the construction, maintenance and use of any trainway or trainways other than those mentioned in clause I which the said Corporation may consider necessary or desirable, it shall be lawful for the said Corporation to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

3. The said grantees shall construct in such a manner as to be available for use at least six miles of the tramways mentioned in clause 1 within three years from the passing of the necessary Act by the Legislature, and they shall, before the expiration of the fourth year, give notice in writing to the said Corporation of the lines they intend to construct during the fifth year, and, failing the observance by the said grantees of the terms of this clause, it shall be lawful for the said

Corporation to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining unconstructed.

4. If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more of the lines hereinbefore in clause 1 specified unconstructed, and if the said Corporation shall not have exercised the rights conferred on them by clause 3, the said Corporation may call upon the said grantees to construct the line or lines; and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their powers granted in this concession shall, so far as relates to that line, cease, and the said Corporation may make arrangements with other persons for the construction of the same, and in such last-mentioned case the other parties, to whom the said concession or any contract shall be granted, shall have the privilege of running round the circle to be constructed by the said grantees, namely, by way of Koila Ghat Street, Strand Road, Fairlie Place and Clive Street, free of toll, and, in the event of the said grantees having failed to construct the six miles of tramway provided for in the preceding clause, such other parties as last aforesaid shall have a like privilege of running over any part of any of the tramways No. 1 to No. 7 above-mentioned in part constructed by the grantees to any other part of the same tramway which may have been constructed by the said other parties:

Provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the said grantees, and shall conform to such rules for the regulation of that traffic as may be drawn out by the said grantees and approved of by the said Corporation:

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the said grantees' lines:

Provided also that, if the said grantees shall offer any obstruction or fail to afford reasonable facilities, to enable the said parties to whom any concession or contract shall be made or given as aforesaid to exercise the privilege of using the lines of the said grantees as aforesaid, it shall be lawful for the said Corporation forthwith to make such rules with reasonable penalties for the breach thereof as they may think advisable for the purpose of regulating the use of the said lines and the traffic thereon.

5. Any tramway or tramways to be constructed under this agreement shall be constructed on the metre-gauge of 3 feet 3\frac{3}{2} inches, or on such other gauge not exceeding 4 feet 8\frac{1}{2} inches as may be mutually agreed upon, and especially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the

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road, and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the said Corporation and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Corporation.

6. If the said Corporation shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized is laid or authorized to be laid, the grantees shall alter or (as the case may be) lay their rails, so that the uppermost surface thereof shall be on a level with the surface of the road so altered:

Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

7. The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable: provided that no steam-carriages may be used without the special consent of the Corporation (Commissioners in special general meeting); and provided also that the said Corporation (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the cenvenience and safety of the public using the streets may require.

8. The sleepers, rails, materials, implements and erections placed and erected by the said grantees or their assigns on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, but they shall not remove or displace the same or any of them or any part or parts thereof without the consent in writing of the said Corporation. No person other than the grantees, or persons authorized so to do under clause 4 thereof, may use upon any tramway or tramways made under this agreement, or under any agreement entered into under clause 4 hereof, carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

9. The said grantees or their assigns shall have power from time to time to fix the rates of fares for carrying persons and goods in the said cars or carriages:

Provided that the rate of fare for each person or parcel shall for any distance not over three miles not exceed three annas and shall not for any greater distance exceed the same proportion.

10. The said grantees may (for the purpose of constructing and maintaining any tramways under this agreement), under such superintendence as is hereinafter specified, open and break

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up the soil and pavement of the several public or other streets (as defined in the Calcutta Municipal Consolidation Act, 1876)¹ and bridges in the City of Calcutta, and therein lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges, and do in and on such street and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining such transways subject to the following conditions:—

1st.—They shall give to the said Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or after the level of any such street or bridge except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees or their assigns shall pay all reasonable expenses unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the said Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks, at the most, unless the said Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up and fill in the ground, and make good the surface, and to the satisfaction of the said Corporation restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall make good all damage done to the gas and water-pipes and sewers whether belonging to the Corporation or to private individuals by the disturbance thereof.

6th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

11. The said grantees shall, at their own expense, at all times maintain and keep in good condition and repair to the reasonable satisfaction of the said Corporation, the rails of which any of the tramways shall for the time being consist, and also so much of any such street or bridge whereon any tramway belonging to them is laid as lies between the rails of

¹ Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1886, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), printed in Vol. III of this Code. The reference in the text should now be construed as a reference to the Act at 1899—see the Bengal General Clauses Act, 1889 (Ben. Act 1 of 1889). s. 10, in Vel. III of this Code.

of 1880.]

(Schedule.)

the tramway, and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the said Corporation.

- 12. In exercising the powers given to them by clauses 10 or 11 the said grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.
- 13. If the said grantees shall commit any breach of clauses 10 or 11 or 12, it shall be lawful for the said Corporation in their discretion, where such breach shall be in the execution of any work or repairs, at any time after seven days' notice to the said grantees, themselves to do and execute such work or repairs, and the expense incurred by the said Corporation in so doing, including the cost of superintendence, shall be repaid to them by the said grantees, together with interest at the rate of eight per cent. per annum and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.
- 14. If any person or persons sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantees or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 or 11, the same shall be made good by the said grantees, and in the event of any suit being instituted against the said Corporation in respect of any of the matters hereinbefore mentioned the said grantees shall, within fourteen days from receipt of a notice thereof from the said Corporation, settle the same; but if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Corporation against all losses, damages and expenses in respect thereof:

Provided always that, if the said grantees fail to settle such suit or to indemnify the said Corporation as is hereinbefore provided, it shall be lawful for the said Corporat on to settle the same without any consent or concurrence on the part of the said grantees, and the sum which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

15. If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), t shall be lawful for the Corporation, without any previous notice to the said grantees, to remove the tramway or part thereof so discontinued, and the said grantees shall pay to the Corporation the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made, and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

16. The said grantees will, if required by the said Corporation, before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents, deposit in an approved bank in Calcutta in the name of the said Corporation the sum of Rs. 5,000, or, in their option, promissory notes of the Government of India or municipal bonds of the nominal value of Rs. 5,000, and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due:

Provided nevertheless that the said Corporation shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or out of the proceeds of sale of the said notes all moneys to which they may be entitled under any clause or clauses of these presents.

17. In consideration of the concession hereby granted the said grantees will pay to the said Corporation rent at the several rates hereinafter specified, namely, from the beginning of the first to the end of the ninth year, at the rate of Rs. 3,000 per annum per mile of double line and Rs. 2,000 per annum per mile of single line; from the beginning of the tenth to the end of the thirteenth year, a rent at the rate of Rs. 3.250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line: from the beginning of the fourteenth year to the end of the seventeenth year, a rent at the rate of Rs. 3,500 per annum per mile of double line and Rs. 2,500 per annum per mile of single line; from the beginning of the eighteenth to the end of the twenty-first year, a rent at the rate of Rs. 3,750 per annum per mile of double line and Rs. 2,750 per annum per mile of single line; and from the beginning of the twenty-second year, a rent at the rate of Rs. 4,000 per annum per mile of double line and Rs. 3,000 per ansem per mile of single line. And the rents aforesaid shall be payable half-yearly and shall form a first charge on the undertaking, and the date on which such rent on each line of of 1880.]

(Schedule.)

tramways or part of a line shall begin to accrue shall be date on which such line or part of a line of tramway shall be opened for public traffic:

Provided always that no lines or sidings over which passengers or goods are not carried for hire, connecting the trafficlines with the stables, carriage-sheds or depôts or other property of the grantees shall be included in mileage for which rent shall be payable.

18. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of eight *per cent. per annum* from the due date until payment.

19. In consideration of the premises the Corporation shall allow to be deducted from the rent payable under this agreement a sum equal to the amount levied upon the grantees, as the municipal taxes upon their horses, carriages and tramway lines (but not on their depôts and buildings or any other property or effects).

20. From and after the commencement of the fifteenth year of this contract to the end of the twenty-first, the said grantees shall not be at liberty to enter upon any fresh engagements or expenditure which would increase their capital account in connection with this contract, without first notifying their intention to the said Corporation and obtaining their approval thereof and sanction thereto in writing.

21. The Corporation shall have the right of purchasing the said trainways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this contract upon declaring its intention so to do in writing not less than six months before the expiration of the said twentyone years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years, upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of India or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce at the rate of interest current on such securities seven per cent. per annum on the amount of the said invested capital, and, if the consideration for such purchase shall be given in such securities as aforesaid, the said grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

22. In the event of the said Corporation failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

23. The provisions hereinbefore contained shall, so far as applicable, apply to all trainways to be constructed by the said grantees by any route or routes to be hereafter fixed by the said Corporation or under clauses 1.3 and 4 of these presents, and to the works connected with or incidental to such trainways.

24. The date of the commencement of this concession shall be the date on which notice of the sanction of the Government of Bengal to the same shall be given to the said grantees.

- 25. Unless the said grantees shall have commenced the work of laying down the said tramway within twelve months from the date of the recognition of this agreement by an Act of the Bengal Legislature, the said Corporation shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways.
- 26. Nothing in this agreement shall take away or affect any power which the Corporation may have by law to open, or break up, or to widen, after, divert or improve any street or road:

Provided always-

1st.—That they shall cause as little detriment or inconvenionee to the grantees as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' previous notice in writing to the said grantees.

3rd.—That before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work.

4th.—That, in the event of their so interfering with the stopping the running of any tramway under this clause, an abatement proportioned to the length of road over which, and time during which, running is stopped shall be made from the rent hereinbefore reserved and payable by the said grantees.

5th.—That any alteration of the position of any of the trumways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

27. If any doubt, difference or dispute shall arise between the said grantees and the said Corporation touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two

of 1000.]

(Schedule.)

persons, one to be chosen by the said grantees and the other by the said Corporation within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators, if they agree, or of such umpire if they disagree shall be final, and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

28. The words "the said Corporation `used in this agreement shall include the present Corporation and their successors, and also all persons empowered by the said Corporation or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Corporation are hereinbefore authorized or empowered to do or exercise.

BENGAL ACT 3 OF 1880

(THE HOWRAH BRIDGE ACT, 1880) 1.

(19th May, 1880.)

An Act to amend the Howrah Bridge Act 1, 1871, 1

Whereas under the sanction of the Lieutenant-Governor Preamble. of Bengal the Commissioners for making Improvements in the Port of Calcutta, being the Commissioners appointed under Bengal Act 9 of 1871,2 have for some time past been running steamers from Calcutta to Howrah and back, and carrying passengers and goods therein, and employing tugs and other boats in towing vessels through the Howrah bridge and generally in the service of the said bridge, and it is expedient that they should continue to own and work such steamers, tugs and boats for the purposes aforesaid, and also that the said Commissioners should have power to build, purchase, provide or procure steam-vessels and tugs and other craft and employ the same for any of the purposes aforesaid; It is hereby enacted as follows:--

lows:—
1. This Act shall be, and shall be deemed to have always Tobe part of Ben, a part of Bengal Act 9 of 1871.

Commissioners, with the Sancbeen, a part of Bengal Act 9 of 1871.

2. It shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal, to build or acquire eramay build or acquire and or acquire and in any manner whatsoever such steam or other vessels as they run steammay think fit,

and to employ the same or any of them in towing vessels of the bridge through the bridge and generally in the service of the bridge, and also in carrying goods, merchandize and passengers to and passengers. from such places in Calcutta and Howrah, as may from time to time be fixed by the Lieutenant-Governor,3

and to book and receive goods, merchandize and passengers at any such places,

and to make and levy such fees and charges as may from time to time be prescribed by the Lieutenant-Governor for the aforesaid duties and services.

¹⁸HOUT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—sec Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide

Table 1914, Sch. II.—Kor. Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt.
LERISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt.
LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the river between Calcutta

and Howkin-sees. 2.

The Howrah Bridge Act, 1871. It is printed ante, p. 217.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

BENGAL ACT 5 OF 1880

(THE BENGAL VACCINATION ACT, 1880).

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3. Parent or guardian of children born in compulsory limits, and of unprotected children brought to reside in such limits, or living in such limits at the date of this Act coming into force, must procure their vacculation.

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5. If child be unfit for vaccination, certificate in Form A to be given, which shall remain in force for three months (one month), but shall be renewable,

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[Ben. Act 5 of 1880.]

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SCHEDULE B.

SCHEDULE C.

SCHEDULE D.

SCHEDULK E.

SCHEDULE F.

BENGAL ACT 5 OF 1880

(THE BENGAL VACCINATION ACT, 1880).1

(26th May, 1880.)

An Act to make Vaccination Compuisory.

PRELIMINARY.

Whereas it is expedient to make vaccination compulsory Preamble. in 2[the town of Calcutta and the port of Calcutta] and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal's to which this Act may be hereafter extended; It is hereby enacted as follows:—

1. This Act may be called the Bengal Vaccination Act, Short title. 1880;

It applies in the first instance only to 2 [the town of Calcutta Extent. and the port of Calcuttal as hereinafter defined;

But the Lieutenant-Governor may, by notification pub- Power to exlished in the Calcutta Gazette, declare his intention to extend towns and this Act, or any of its provisions, to any town or selected local local areas. area in the territories administered by him.

Any inhabitant of such town or area objecting to such Objection to extension may, within s x weeks from the said publication, sion.

¹ Legislative Papers.—For Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt. IV, p. 62; for Report of Select Committee, see ibid. p. 117; and Proceedings in Council, see ibid. Supplement, pp. 270, 311, 405, 406.

Lo al Extent.—This Act extends to the town and port of Calcutta, and any portion of it may be extended, by notification, to any other town or selected area in Bengal—see s. 1.

Bengal Act 2 of 1911, which makes various textual amendments in the Act of 1880, applies to Calcutta as defined in clause (2) of section 3 of the Calcutta Municipal Act, 1889, to the port of Calcutta, and to the Cossipore-Chitpore, Garden Reach, Howrah, Maniktola, South Suburban and Tollygam Municipalities; and any portion of it may be extended, by notification, to any other town or selected area—see s.s. 1 and 2 of the Act, in Vol. 111 of this Code.

The operation of each Act in any place may be suspended by notification—see the concluding paragraph of s. 1 of the Act of 1880, post, p. 161 and section 3 of the Act of 1911, in Vol. 111 of this Code.

The application of Ben. Act 5 of 1880 is barred in the Chittagong Hill-tracts by the Chittagong

paragraph of s. 1 of the Act of 1880, post, p. 164 and section 3 of the Act of 1911, in Vol. 111 of this Code.

The application of Ben. Act 5 of 1880 is harred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 1 (2), in Vol. 1 of this Code.

AMENDMENTS MADE BY THE LOCAL SELF-(100 NEINMENT ACT. - Sections 92 to 95 of the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885) are to be read with, and taken as part of Ben. Act 5 of 1880-see Ben. Act 3 of 1885.

Bections 92 to 94 of the Act of 1885 impose duties and confer powers on District Boards with respect to vaccination, and s. 95 empowers Commissioners of Divisions to make rules for the guidance of District Boards in the discharge of those functions.

It is provided by s. 93 of the Act of 1885 that Inspectors of Vaccination appointed by a District Board shall exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880, and, by s. 91, that District Boards shall have the powers of the Magistrate of the district under s. 25 of the Act of 1880.

INOCULATION.—As to the prevention of inoculation for small-pox, see the Bengal Prevention of Inoculation Act, 1865 (Ben. Act 4 of 1865), cake, p. 39.

*The words "the town of Calentta and the port of Calcutta," in the preamble and in s. 1, were substituted for the words "the town, port and suburbs" by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), as 2 and 3, respectively, post, p. 1008.

*This includes the present Presidency of Fort William in Bengal—see the Bengal, Bihar and Orland.

and Assam Laws Act, 1912 (7 of 1912), s. 8, and 8ch. D, items 1 and 2, in Vol. 1 of this Code.

Ben. Act 5

(Preliminary.—Sec. 2.)

send his objection in writing to the Secretary to the Government of Bengal, and the Lieutenant-Governor shall take such objection into consideration.

Procedure thereon.

When six weeks from the said publication have expired, the Lieutenant-Governor. if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification * effect the proposed extension.

The Lieutenant-Governor shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such

manner, as he may direct.

Commence-

This Act shall come into force from the day 3 on which it may be published in the Calcutta Gazette with the assent of the Governor General; but its operation in any place may at any time be suspended by the Lieutenant-Governor1 by notification in the said Gazette.

Interpretationclause.

2. In this Act, unless there be something repugnant in the subject or context,-

"Town of Calcutta." " Port of

Calcutta."

⁴ ["town of Calcutta" means Calcutta as defined by the Calcutta Municipal Consolidation Act. 1888 7;

"port of Calcutta" means the Port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act 5 of 1870, [or any other law for the time being in

force];

en. Act 2

" Parent."

"parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child;

'Guardian."

"guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully anthorized in that behalf;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912). s. 8, and Sch. D. items 1 and 2, in Vol. I of this Code.

2 For a list of notifications issued under this clause of section 1, for Bengal as constituted on the Statuch, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

3 i.e., the 26th May, 1860—see Calculta Grazette, 1880, Pt. III, p. 49.

4 This definition was substituted for the original definition by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 1 (I). The original definition ran thus:—

^{**}Heart Act, 1889 (Den. Act 2 of 1888) has been repealed and re-enacted by the Calcutta Municipal Act, 1889 (Ben. Act 2 of 1888) has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 2 of 1898), and this reference should now be construed as a reference to clause (7) of s. 8 of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this

Code.

These words in square brackets were added by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 4 (2), post, p. 1003 Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), post, p. 1018.

The definition of "Suburbe of Cilcutta" was repealed by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 4 (3), and is omitted. It ran thus:—

"Suburbe of Calcutta" means the suburbs defined by the notification of the 10th September, and published in the Calcutta Gazette of the 26th September, 1877."

(Preliminary.—Sec. 2.)

"public vaccinator" means any vaccinator appointed under "Pablic vaccinator." this Act. or any person duly authorized to act for such public vaccinator;

lical" itioner."

2" medical practitioner " means any person duly qualified by a diploma, degree or license to practice in medicine or surgery, for specially licensed by the Lieutenant-Governor to practise raccina-tion and grant certificates under the provisions of this

protected

2" unprotected child " means a child who has not been protected from small-pox by having had that disease ⁷ either naturally ⁷ or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination ;

rotected

. .____

2" unprotected person" includes a child who has no a person who has not been a person who has not been

1 " Inspector " a "Inspector." means person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act:

³ " medical practitioner" " Medical means any person duly qualified. by a diploma, degree or license to practise in medicine or surgery;

" unprotected child " means "Unprotected child." a child who has not been protected from small-pox by having had that disease naturally or by having been successfully vaccinated, and who has not been certified under the provisions of this Act* to be insusceptible of vaccination:

"unprotected person" in "Unprotected cludes a child who has no person." parent or guardian, and means parent or guardian, and means

¹ This definition of "Inspector" was inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 3, in Vol. III of this Code), and applies only in areas in which that Act is in

⁽Ben. Act 2 of 1911, 8. 1, in vol. 111 of this Code), and approximately (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. 111 of this Code), is not in force.

The differences between the clauses lie in the words printed in italics.

The differences between the clauses lie in the words printed in italics.

These clauses are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. 111 of this Code), is in force.

As to the meaning of the expression "duly qualified medical practitioner," see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), s. 30, in Vol. 111 of this Code.

These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 5 (I), in Vol. III of this Code], but remain in force in areas in which that Act is not in force.

Act 2 of 1911, 8.5 (2), in vol. 111 of this Code], but remain in Bengal—see the Bengal, Bihar and Orissa and Assam Law Act, 1912 (7 of 1912), 8.5, and Sch. D, items 1 and 2, in Vol. I of this Code.

1 These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, 8.5 (2), in Vol. III of this Code], but remain in force in areas in which that Act is not in force.

See s. 6, post, p. 469.

(Vaccination of Children.—Sec. 3.)

protected from small-pox by having had that discase 1 either 1 or by naturally inoculation or by having been successfully vaccinated. and who has not been certified under the provisions of this Act to be insusceptible of vaccination:
"section" means a section of this Act.

protected from small-pox by having had that disease naturally or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible of vaccination;

" Section "

VACCINATION OF CHILDREN.

Parent or guardian of children born n compulsory limita

and of and of unprotected children brought to reside in such limits.

3. The parent or guardian of every child born in any place to which this Act applies as above provided, or may hereafter be extended, shall, within one year after the birth of such child, and

3. The parent or guardian of every child born in any place to which this Act applies as above provided, or may hereafter be extended, shall, within *six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid,

shall, within six months after such child's arrival in such place, or, if the child be at the time of its arrival less than one year

'shall, within six months after such child's arrival in such place,

[!] These words in Italics were repealed by the Bengal Vaccination (Amendment) Act. 1911 [Ben. Act 2 of 1911, s. 5 (2), in Vol. III of this Code], but remain in force in areas in which that Act is not in force.

* New s. 6, post, page 469.

¹⁸ Nov. 8, 6, post, page 469.

2 In reference to the amendments made by the Bengal Vaccination (Amendment) Act, 1887 (Ben Act 2 of 1887), it is declared by s. 2 of that Act (post, p. 989) that "unless there be something repugnant in the subject or context, "vessel" includes anything made for the conveyance by water of human beings or of property.

4 As to the application of ss. 3 to 10 to "unprotected persons", see s. 12, post p. 472

5 These clauses are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences in the clauses lie in the words printed in italics.

2 These clauses are in force in this form in areas in which Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911), in Vol. III of this Code), is in force.

These clauses are in force in this form in areas in which Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911), s. 6 (I), in Vol. III of this Code], for areas in which that section is in force.

These words in the section is in force.

These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 6 (2), in Vol. III of this Code], but remain in force in areas in which that Act is not in force

of 1880.

(Vaccination of Children.—Sec. 4.)

or living in such limits at the date of this Act coming into force,

old, within one year and three months after its birth; and 1 the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year but does not exceed fourteen years shall, within six months from the said date,

take it, or cause it to be taken, to a public vaccine-station to must procure be vaccinated, or shall, within such period as aforesaid, cause vaccination. it to be vaccinated by some medical practitioner or public vaccinator:

² [and the parent or guardian of every unprotected child may, Unprotected whenever the Superintendent of Vaccination, as hereinafter beginning to be appointed, shall deem it expedient, be served with a notice, within fifteen in the form prescribed in the first Schedule of this Act, days requiring the parent or guardian, within fifteen days after the service of the same, to take such child, or cause such child to be taken, to a public vaccine-station to be vaccinated, or within such period as aforesaid to cause it to be vaccinated by some medical practitioner or public vaccinator;

and every such parent or guardian shall, within the said period, comply with the requisition];

and any public vaccinator to whom such child, or to whom Public and any public vaccinator to whom were stated to vaccinator any child under the age of fourteen years, is brought for vaccinator vaccination at such vaccine-station, or who is requested to vaccinate any vaccinate such child elsewhere than at a public vaccine-brought to brought to be a such child elsewhere than at a public vaccine-brought to station, is hereby required, with all reasonable despatch, subject him to the conditions hereinafter mentioned, to vaccinate such

Inspection.

'4. 'At an appointed hour

⁵4. ⁷At an appointed hour Inspection. on the same day in the on a day not less than seven or following week after the more than ten days after the

¹ This clause is in force in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

2 These clauses in square brackets were inserted in section 3 by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 3, post, p. 989.

2 Nee 8s. 16, 25, post, pp. 474 and 477.

4 Section 4 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections lie in the words printed in italics.

5 Section 4 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

5 This clause and the next clause (in the next page) in section 4 were substituted for the original paragraph by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 4, post, p. 989.

1 This clause in s. 4 (except the portion printed in italics) was substituted for part of the original paragraph by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 4, post, p. 989.

2 These words in italics were substituted for the words "the same day in the following week" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911), s. 7 (I), in Vol. III of this Code], for areas in which that Act is in force.

(Vaccination of Children .- Sec. 4.)

operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected by the operator, or by any person deputed for that purpose by the Superintendent of Vaccination, that the result of the operation may be ascertained;

2 and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccinestation to visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf.

operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected [by the operator (if a medical practitioner) or by an Inspector.] that the result of the operation may be ascertained;

³ [and, when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not.]

Repetition of

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by a public raccinator for anything done by him under this section.

In the event of the vaccin- Repetition of ation being unsuccessful, such vaccination. parent or guardian shall, if 'the Inspector or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by

an Inspector for anything done by him under this section.

¹ There words in square brackets were substituted for the words "by the operator or by any person deputed for that purpose by the Superintendent of Vaccination" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911. s. 7 (2), in Vol. III of this Code], for areas in which

⁽Amendment) Act, 1911 [Ben. Act 2 of 1911. s. 7 (2), in Vol. III] of this Code], for areas in which that Act is in force.

See foot note on page 467 ante.

These words in square brackets were substituted for the words printed opposite to them by the Bengal Vaccination (Amendment) Act. 1911 [Ben. Act 2 of 1911, s. 7 (3), in Vol. III of this Gode], for areas in which that Act is in force.

These words "the Inspector" were substituted for the words "the public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (4), in Vol. III of this Code], for areas in which that section is force.

These words "an Inspector" were substituted for the words "a public vaccinator" by the Bengal Vaccination (Ameadment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (6), in Vol. III of this Code], for areas in which that section is in force.

(Vaccination of Children.—Secs. 5, 6.)

If child be unfit for vaccination, certificate in Form A to be

which shall

romain in force for three months, but

shall b

rene wable.

15. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for three months only, but shall be renewable for successive periods of three months until the public raccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated. and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

6. If any public vaccinator or medical practitioner shall find

that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the child brought to

vaccination has for

lſ 3 Inspector If child be any practitioner vaccination medical shall be of opinion that any certificate in Form A to be child is not in a fit state to be given, vaccinated he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like ... effect, that the child is then in a state unfit for vaccination.

remain in force for one remain in force for one month only, but shall be month, but shall be renewable periods of 1 one ³ Inspector until the medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7. if warranted by the result.

66. (1) If any Inspector of Procedure medical practitioner finds—

(a) that a child brought small-pox or to be for vaccination has insusceptible already had small- of successful vaccination. pox, or

(b) that a child who has been three times

The said certificate shall which shall for successive renewable. month

where child is found to have had

1 Section 5 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act?
1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The difference between the two sections lie in the words printed in italics.

Section 5 is in force in this form in areas in Western Bengal in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, is 8 (I), in Vol. III of this Code) areas in which that section is in force.

These words "one month" were substituted for the words "three months" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, is 8 (I), in Vol. III of this Code], for areas in which that section is in force.

Section 6 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections lie in the words printed in italics.

Section 6 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 1911, in Vol. III of this Code), is not in force.

The difference between the two sections lie in the words printed in italics.

Section 6 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 1911, in Vol. III of this Code), is not in force.

Provision for giving certificate of mauscen tibility o ticce accination

(Vaccination of Children.—Sec. 6.)

already been successfully inoculated or had the small-pox,

he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect:

and, if the Superintendent of Vaccination be satisfied that such child is insusceptible of successful vaccination, he shall endorse such certificate, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

unsuccessfully vaccinated is insusceptible of successful vaccination.

he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form in Schedule B hereto annexed, or to the like effect.

(2) If the Superintendent is satisfied that such child has already had small-pox, or is insusceptible of successful vaccination he shall endorse such certificate.

(3) Such endorsement shall operate as an exemption from liability to vaccination,—

- (1) in case (a) in subsection (1)—absolutely, and
- (II) in case (b) in that sub-section—for a period of twelve months.

(4) Upon the expiration of the said period, the parent or guardian of such child shall forthwith cause the child to be vaccinated again;

and, if an Inspector or a medical practitioner finds after two further unsuccessful vaccinations that the child is insusceptible of successful vaccination, he shall deliver to the parent or gurdian a further certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect;

and, if the Superintendent of Vaccination be again satisfied that the child is insusceptible of successful vaccination, (Vaccination of Children.—Secs. 7, 8.)

he shall endorse such certificate, and such endorsement shall operate as an absolute exemption from liability to further vaccination.

Provision for giving certificates of anccessful vaccination.

17. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child.

and shall have ascertained that the same has been successful,

shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed or to the like effect, certifying that the said child has been successfully vaccin-

No fee to be charged for a public vaccine-station, or for certificates

8. ¹ No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station.

²7. ³ When a public vaccin- Provision ator or medical practitioner for giving certificates of has performed the operation successful vaccination. of vaccination upon any child,

and an Inspector or such practitioner has ascertained that the same has successful.

such Inspector or practitioner, as the case may be,] shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed or to the like effect, certifying that the said child has been successfully vaccin-

8. 2 No fee or remuneration No fee to be shall be charged by any 'In- charged for vaccination at spector to the parent or spublic vacguardian of any child for any or for certificate as aforesaid, cates. nor 'ly any public vaccinator for any vaccination done by him in pursuance of this Act at a public vaccinestation.

Proviso.

But, when a public vaccinator attends at the request of the parent or guardian elsewhere than at a public vaccine-station for the purpose of vaccinating a child, he shall be paid a fee not

¹ Section 7 and the first clause of section 8 are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force. The differences between the two sections and clauses lie in the words printed in itslics.

* Section 7 and the first clause of section 8 are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

* The words in square brackets in section 7 were substituted for the words printed opposite they the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 10, in Vol. III of this Code], for areas in which that section is in force.

* This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 11 (1), in Vol. III of this Code], for areas in which that section is in force.

* These words "by any public vaccinator" were inserted by the Bengal Vaccination.

These words "by any public vaccinator" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 11 (2), in Vol. III of this code], for areas in which that section is in force.

[Ben. Act 5

(Vaccination of Children.-Vaccination of Unprotected Persons.-Secs. 9-13.)

exceeding eight annas; such fee to be devoted to the purposes in the next succeeding section mentioned.

Fees how to be appro-priated.

9. All such fees shall, in Calcutta, be paid in by the public vaccinator to the credit of the Corporation of the Town of Calcutta 1, and be by them appropriated for the purposes of this Act.

In places outside Calcutta such fees shall be appropriated as the Lieutenant-Governor * may from time to time direct.

Buperintendent of Vaccination or his assistants may inspect of child.

310. The Superintendent of Vaccination, as hereinafter appointed, or any of his assistants, may, from time to time, inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner; and may, if he think fit, direct that such child forthwith again be vaccinated.

110. The Superintendent of Superinten-Vaccination, as hereinafter 5 Vaccination appointed, or any of his or his assistants assistants, or any Inspector, may inspect may, from time to time, vaccinate, of child. inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner; and may, if he think fit, direct that such child be forthwith again vaccinated.

VACCINATION OF UNPROTECTED PERSONS.

Unprotected persons to be vaccinated.

11. Every unprotected person may, whenever the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him, within fifteen days after the service of the same, to submit himself to a public vaccinator or medical practitioner to be vaccinated; and every such person shall, within the said period, submit himself to a public vaccinator or medical practitioner for vaccination.

Former sections applicable.

12. The provisions of sections 3 to 10 (both inclusive) shall apply, with the necessary alterations, to the case of unprotected persons.

Health Officer of Port may cause vaccin ation of un-profested persons on their arrival.

13. The powers conferred by sections 11 and 30 upon the said Superintendent of Vaccination may, in the case of unprotected persons arriving in the port of Calcutta, be exercised by the Health Officer of the said port immediately upon their arrival.

^{**}IThe name of this body is now "the Corporation of Calcutta"—see the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), s. 6, in Vol. III of this Code.

*Now the Governor in Council of Fort William in Benyal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D. items I and 2, in Vol. I of this Code.

*Section 10 is in force in this form in areas in which the Bengal Vaccination (Amendment)

Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

*Section 10 is in force in this form in areas in which the Bengal Vaccination (Amendment)

Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this (Code), is in force.

The differences between the two sections lie in the words printed in italics.

*See sa. 26, 28, post, pp. 474 and 477.

*These words in italics were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 12, in Vol. III of this Code], for areas in which that section is in force.

of 1890.]

(Miscellaneous.—Sec. 13A.)

¹If a vessel arrives in the said port of Calcutta having on Health Officer board any person suffering from the disease of small-pox, the said Health Officer may, if he deem it expedient in order to require immer prevent the risk of the contagion of small-pox being conveyed attan of uninto the town or suburbs of Calcutta, require any unprotected protected person on board such vessel to submit himself forthwith to be board. vaccinated; and every such person shall, before leaving the vessel, submit himself to the said Health Officer, or any person duly authorized to act in this behalf, for vaccination:

¹Provided that nothing herein contained shall apply to any Proviso. vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel belonging to any foreign

Prince or State.

² MISCELLANEOUS.

Occupier of house, etc., to

213A. Every person occupying any house, enclosure, vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner, or duly vaccinator authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not. and as, having regard to the customs of the country, may be reasonable.

213A. Every person occu- Occupier of house, etc... pying any house, enclosure, allow access. vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner, or public vaccinator or Inspector duly authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not, and as, having regard to the customs of the country, may be reasonable.

Whenever it is necessary to ascertain whether a woman is protected or not, the investigation shall be conducted by a female with strict regard to the habits and customs of the country.

¹ This paragraph and provise in s. 13 were added by the Bengal Vaccination (Amendment) Act 1887 (Ben. Act 2 of 1887), s. 5, post, p. 389.

2 This heading and s. 18A were inserted by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 6, post, p. 990.

3 This clause of section 18A is in force in this form in sreas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

4 This clause of section 18A is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference between the two clauses lies in the words printed in titalics.

5 These words "or Inspector" were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 18, in Vol. III of this Code), for areas in which that section is in force.

(Procedure applicable to the Town of Calcutta only.— Secs. 14-16.)

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

Public vaccine atations

14. For the purposes of this Act, the Corporation of the Town of Calcutta (hereinafter called the Corporation) shall, subject to the approval of the Lieutenant-Governor,2 appoint3 such stations for the performance of vaccination as they shall, from time to time, deem fit.

Such stations shall be called 'public vaccine-stations."

Appointment of public vaccinators. etc.

Notification of stations and hours of attendance.

The Corporation 1 shall appoint such public vaccinators and vaccination-establishments for carrying out the purposes of this Act as they shall, from time to time, deem fit.

The positions of the public vaccine-stations fixed under the provisions of this section, and the days and hours of the public vaccinators' attendance at each station, shall be published, from time to time, in such manner as the Corporation 1 may direct.

Power of Corporation to make

15. The Corporation 1 may, from time to time, make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination-establishments aforesaid, the payment of public vaccinators, and the realization and scale of fees under this Act.

15. The Corporation may, Power of from time to time, make such to make rules, consistent with this rules. Act, as they may deem fit, for regulating the expenses of vaccination-establishments aforesaid, the payment of public vaccinators and Inspectors, and the realization and scale of fees under this Act.

16. The Health Officer for the town of Calcutta shall be ex officio Superintendent of Vaccination for the said town.

Superintendent of Vaccination.

"Such officer, subject to the orders of the Lieutenant-Governor, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties in

Such officer, subject to the orders of the Lieutenant-Governor, shall have a general control over all the proceedings of public vaccinators and Inspectors, and shall perform

¹ As to the exercise, in areas ontside Calcutta, of the powers conferred by this Act on the Corporation, see s. 26 and foot-note * shereto, post, p. 47.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Law Act, 1912 (7 of 1912), s. B and Sch. D, items 1 and 2, in Vol. I of this Code.

¹ For orders made under this clause of section 14, see the Bengal Vaccination (Amendment) and the section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

¹ Section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

¹ These words "and inspectors" were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

¹ As to who is to exercise and perform, in areas outside Calcutta, the powers and daties assigned to the Superinteedent of Vaccination, see s. 86, poor, p. 47.

¹ This clause of section 18 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in ferce.

¹ This clause of section 18 is in force in this form in areas are as a which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in ferce.

The difference between the two clauses lies in the words printed in itselies.

of 1880.1

(Procedure applicable to the Town of Calcutta only.-Registration.—Secs. 17-19.)

ation, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.1

connection with public vaccin- such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.1

The Lieutenant-Governor may appoint, if necessary, one Assistant or more assistants to the Superintendent, and, from time to ents. time, remove any such assistant.

17. The expenses of all vaccination-establishments under Expenses of establishments. this Act, and of the supply of lymph, in Calcutta, shall, unless ments to be a the Lieutenant-Governor otherwise direct, be defrayed by the charge on the Corporation.

REGISTRATION.

18. On the registration of the birth of any child under the Registrar of Births to provisions of Chapter X of the Calcutta Municipal Consolida- give notice of tion Act, 1876, or of any other law for the time being in requirement force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect; and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of ali certificates to be traremitted to the Registrar.

of 1876.

19. Every public vaccinator or medical practitioner, who gives to any parent or guardian a cortificate in any of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such

19. Every inspector or Duplicates of dical practitioner, who all certificates to be medical practitioner, gives to any parent or transmitted guardian a certificate in any to the Registrar. of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such

Vaccination (American Vaccination) which that section is in force.

#For power to appoint other persons to perform the duties imposed on Registrars of Births under as. 19 to 28, see s. 24, post, p. 476.

¹ Now the Governor in Council of Fort William in Bengal—ses the Bengal, Bihar and Orissa and Assam Laws &ct., 1912 (7 of 1912), s. 3, and Sch. D., items 1 and 2, in Vol. I of this Code.

**Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to Ch. XXXVIII of the latter Act—ses the Bengal General Clauses Act, 1889 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

* This clause of section 19 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code) is not in force.

* This clause of section 19 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

* This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, in Vol. III of this Code] s. 15, for assas in which that section is in force.

(Registration.—Secs. 20-24.)

certificate was given has been certificate was given has been registered; registered;

or, if that be not known to him, or if the child was born out of the town of Calcutta, or his birth has not been registered in the said town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

20. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

21. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the Calcutta Municipal Consolidation Act, 1876, or of of 1876. any other law? for the time being in force, with such additional columns as shall, from time to time, be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

Ben. Act 4

and also a register postponed vac-cinations.

Registrar to keep a vaccination

notice and

and also a

duplicate register of births with

concerning

vaccination.

book.

22. He shall also keep a register of postponed vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate if he receives more than one; and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superint e n d-

23. Every Registrar' shall transmit, on or before the fifteenth of every month, to the Superintendent of Vaccination, a return, in such form as may, from time to time, be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him, in pursuance of the provisions of this Act, during the last preceding month.

Lieutenant-Governor direct rm duties of Registrar.

24. The Lieutenant-Governor may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22 say person to and 23 shall be performed by any other person appointed by the Lieutenant-Governor.3

¹ For power to appoint other persons to perform the duties imposed on Registrars of Births under as. 19 to 28, see a. 24, on this page.

**Bem. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), and this reference should now be construed as a reference to Ch. XXXVIII of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), a. 10, in Vol. III of this Code.

**Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1812 (7 of 1912), s. 8, and Sob. D, items 1, and 2, in Vol. I of this Code.

of 1880.]

(Procedure applicable outside the Town of Calcutta .-Prosecutions and Offences.—Secs. 25, 26.)

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

25. In any municipality other than the town of Calcutta, Powers of Corporation and in any local area to which this Act may hereafter be extended, the Magistrate of the district may exercise all or any of the powers by this Act conferred upon the Corporation; and the Civil Surgeon of the district, or such other officer as the Lieutenant-Governor may, from time to time, appoint in vaccination to the Civil Surgeon of the district, and of Superintendent of the Lieutenant-Governor may, from time to time, appoint in vaccination to the Civil Surgeon of the Civil Surgeon o

that behalf, shall exercise the powers and perform the duties by by Civil this Act assigned to the Superintendent of Vaccination.

PROSECUTIONS AND OFFENCES.

26. If the Superintendent of Vaccination shall notify in Magistrate writing to a Magistrate that he has reason to believe, from the order for the statement of an informant or otherwise, that any child under vaccination the age of fourteen years is an unprotected child, and that he unprotected has given notice to the parent or guardian of such child to fourteen years, procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and if the Magistrate shall find, after such inquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time.

If the child is at any time produced before him, the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian, for any recusancy under this clause, with fine which

shall not exceed five rupees.

If, at the expiration of the time appointed by the Magistrate, Penalty for the child shall not have been vaccinated, or shall not be shown of such order. to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

Provided that, if the Magistrate shall be of opinion that the Proviso for person is improperly brought before him, and shall refuse to costs to make an order for the vaccination of the child, he may direct improperly summoned. the said Superintendent to disclose the name of his informant,

¹ See a. 1, ante, page 463. **As to the exercise by District Boards of powers of appointment, etc., of public vaccinators and of Inspectors of Vaccination (to exercise the functions of the Superintendent of Vaccination), and powers of the District Magistrate, see the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885), ss. 97 to 94, post, p. 947.

**S Now the Governor in Louncil of For William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code. 1 See s. 1, ante, page 463.

(Prosecutions and Offences.—Secs. 27, 28.)

if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him:

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

Penalty for not producing a child.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to one hundred rupees and to a further fine of twentyfive rupees for every day during which the offence continues:

Provided that the aggregate amount of fine for such offence shall not exceed one thousand rupees.

28. Whoever, in contravention of this Act.-

- '(a) neglects without reasonable excuse to submit himself. within fifteen days after the service on him of the notice prescribed by section 11, to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or
- (a) neglects without rea- Penalty for sonable excuse to vaccinated. submit himself, within fifteen days after the service on him of the notice prescribed by section 11, to a public vaccinator medical practitioner to be vaccinated, or to the operator (if a medical practi-tioner) or to an Inspector after vaccination to be

inspected, or

- (b) neglects without reasonable excuse to take or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or
- (c) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births, 'or

⁴ Classes (a) of section 36 is in ferce in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.
5 Clause (a) of section 28 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.
The difference between the two clauses lies in the words printed in Italics.
5 These words in Italies were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, a. 15, in Vol. III of this Code), for areas in which that section is in force.
4 This word "ore," in a. 35 (c), was added by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1937), a. 7, peet, p. 290.

(Prosecutions and Offences.—Secs. 29-30.)

'(d) refuses without reasonable excuse to submit himself to be vaccinated when required so to do by the Health Officer exercising the powers conferred upon him by section 13,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the sign-Penalty for ing or making of, a false certificate or duplicate certificate under signing false this Act, shall be punished with imprisonment of either des-certificate. cription, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which

may extend to one hundred rupees, or with both.

129A. Whoever voluntarily obstructs any public vaccinator in the discharge of the duties assigned to him as such shall be punished for each such offence with fine which may extend to fifty rupees.

**29B. Any public vaccin-

ator who vexationsly and un-

29A. Whoever voluntari- Penalty for ly obstructs any public vaccin- public vaccinator for Inspector in the inspector discharge of the duties as- in the signed to him as such shall be his duties. punished for each such offence with fine which may extend to fifty rupees.

29B. Any public vaccin- Vexations ator or Inspector vexatiously and unnecessarily vaccinator enters any house, enclosure, vessel or other place, on ascertaining of pretence whether the inmates, or any of them, are protected or not, shall, for every such offence, be punished with fine which may extend to fifty rupees.

30. All offences under this Act shall be cognizable by a Prosecutions Magistrate, subject to the provisions of any law for the time ed by Lieute-being in force for the trial of offences; but no complaint of any nant-Governsuch offences shall be entertained unless the prosecution be intendent of

who public arily vaccinator or

Vaccination.

Vexatious entry by pub-ic vaccinator.

45 of 1860.

enalty for

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ischarge of

necessarily enters any house, enclosure, vessel or place, on pretence of ascertaining whether the inmates, or any of them, are protected or not, shall, for every such offence, be punished with fine which may extend to fifty rupees.

_____ This clause (d) was added by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of

¹ This clause (d) was added by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), a. 7, past, p. 990
2 See Act 45 of 1869, a. 58, in General Acts, 1824—67, Ed. 1909, p. 256.
3 See Acts 20 And 29B were inserted by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1837), a. 8, past, p. 990.
4 Sections 29A and 29B are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911 in Vol. III of this Code) is not in force.
4 Sections 29A and 29B are in force in this form in areas in which the Bengal Vaccination 4 Sections 29A and 29B are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, j. 17 Vol. III of this Code), is in force.

The differences between the sections is in the words printed in italica.
4 These words "or Inspector" were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 13, in Vol. III of this Code), for areas in which that section is in force.

7 Res sew the Code of General Procedure, 1896 (6 of 1896), in General Acts, 1898—1896, Ed. 1899, p. 82. 1900, p. 88.

(Prosecutions and Offences.—Miscellaneous.—Secs. 31-33.)

instituted by order of, or under authority from, the Lieutenant-Governor or the Superintendent of Vaccination.

Prosecution for neglect.

31. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect;

but, if the defendant produce any such certificate as herein before described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

Annual return to be number of children vaccinated, etc.

32. It shall be the duty of the Superintendent of Vaccination to show in an annual return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed, from time to time, by the Lieutenant-Governor or the Corporation.

Lieutenant-Governor to make rules.

- 33. The Lieutenant-Governor may, from time to time make rules or issue orders, consistent with this Act,-
- $^{b}(a)$ determining the quali-'(a) determining the qualifications to be required of fications to be required of public vaccinators; public vaccinators and Inspectors;
 - (b) regulating the scale of fees to be paid outside the town of Calcutta;
 - (c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine-stations and are too poor to pay fees -

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

8 For rules made under section 33, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

8 As to the local extent of rules and orders issued under section 38 for Calcutta, and as to the

power of the Local Government to modify or cancel such rules and orders, see the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 5, post, p. 1008.

As to the power of the Commissioner to make rules for the guidance of District Boards in matters relating to vaccination, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885),

relating to vaccination, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 35, sost, p. 347.

4 Clause (a) is in force in this form in areas in which the Bengal Vaccination (Amendment) Act; 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

Clause (a) is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference bet ween the two clauses lies in the words printed in italics.

These words "and Inspectors" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 18, in Yol. III of this Code], for areas in which that section is in force.

(First Schedule.)

- (d) providing for the supply of lymph;
- 1(e) regulating the books and forms to be kept by the public vaccinators or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of Act; this and generally
- $^{1}(f)$ for the guidance of public vaccinators and others in all matters connected with the working of this Act.
- 2(e) regulating the books and forms to be kept by the public vaccinators * and Inspectors or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally
- $^{2}(f)$ for the guidance of public vaccinators and Inspectors and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the Calcutta Gazette.

THE FIRST SCHEDULE.

(See section 3.)

To

(Here insert the name of the parent or quardian.)

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to take, or cause (here insert the name of the child), the child of (here insert the name of the father), to be taken to a public vaccine-station for vaccination, or to cause it to be vaccinated by some medical

¹ Clauses (e) and (f') are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

*Clauses (e) and (f') are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911), is in force.

The differences between the two clauses lie in the words printed in italics

*These words "and Inspectors" were inserted by the Bengal Vaccination (Amendment) Act, 1911

[Ben. Act 2 of 1911, s. 14, in Vol. III of this Code], for areas in which that section is in force.

*This Schedule was annexed to this Act by the Bengal Vaccination (Amendment) Act, 1887

(Ben Act 2 of 1887), s. 8, as amended by the Amending Act, 1897 (5 of 1897)—see post, p. 989.

Ben. Act 5

(Schedule A.)

practitioner or public vaccinator within fifteen days from the service of this notice, and that in default of so doing you will be liable to a fine of fifty rupees.

The public vaccine-station nearest your house is at the days and hours for vaccinat on at that station are as follows:-

(Here insert the days and hours when the public vaccinator is in attendance.)

On the said (here insert the name of the child) being brought before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days, and within the hours prescribed for public vaccination at such station, the said (here insert the name of the child) will be vaccinated free of charge.

If you wish the said (here insert the name of the child) to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the

of

, 18 .

Superintendent of Vaccination,

or Civil Surgeon (as the case may be).

SCHEDULE A.

² SCHEDULE A.

(See section 5.)

(See section 5.)

I, the undersigned, hereby certify that, in my opinion the child of . resident is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed

I, the undersigned, hereby certify that, in my opinion the child of , resident at is not now in a fit and proper state to be vaccinated, and I do hereby recommend that the vaccination be postponed

¹ Schodule A is in force in this form in in areas in which the Bengal Vaccination (Amendment) Act, 1921 (Ben. Act 2 of 1921, in Vol. III of this Code), is not in force.

The differences between the two Schedules lie in the words printed in talice.

Schedule A is in force in this form in areas in which the Hengat Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Ve) III of this Code), is in force.

of 1000.]

(Schedule B.)

1 one the period of three for the period of for month from this date. months from this date.

Dated the day of , 18 Dated the , 18 . day of

(Signature of Medical Prac-(Signature of Medical Practitioner or Public Vaccinator.) titioner or 2 Inspector.)

SCHEDULE B.

'SCHEDULE B.

(See section 6.)

(See section 6.)

1, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of (or that residing at the child has already had small-pox, as the case may be),

I, the undersigned, hereby , the child certify that , residing at of has already had small-pox (or, as the case may be)

that I have (or a public vaccinator has) three times (or twice as the case may be) unsuccessfully vaccinated , the child of

residing at and I am of opinion that the said child is insusceptible of

and I am of opinion that the said child is insusceptible of successful vaccination.

day of

Dated this day of , 18. ,18 .

successful vaccination.

(Signature of Medical Practitioner or Public Vaccinator.)

Dated this

(Signature of Medical Practitioner or *Inspector*.)

(Endorsement by Superintendent of Vaccination.)

(Endorsement by Superintendent of Vaccination.)

¹ These words "one month" were substituted for the words "three months" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 17(1), in Vol. III of this Codo], for areas in which that section is in force.

2 This word "Inspector" was substituted for the words "Public Vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 17 (2), in Vol. III of this Code], for areas in which that section is in force.

3 Schedule B is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1912 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two Schedules lie in the words printed in italics.

4 Schedule B is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1921 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force. The present Schedule was substituted by section 18 of that Act for the Schedule B printed opposite to it.

[Ben, Act &

(Schedules C, D.)

'SCHEDULE C.

'SCHEDULE C.

(See section 7.)

(See section 7.)

I, the undersigned, hereby certify that . the child of , age , has been resident at successfully vaccinated by me.

I, the undersigned, hereby , the child certify that of , has been resident at successfully vaccinated by me or by a public vaccinator).

Dated this , 18 . Dated this day , 18 . day

(Signature of Medical Prac-(Signature of Medical Practititioner Public tioner or 'Inspector.) Vaccinator)

SCHEDULE D.

(See section 11).

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing, you will be liable to a fine which may amount to fifty rupees.

The public vaccine-station nearest your house is at

The days and hours for vaccination at that station are as follows :-

(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

¹ Schedule C is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not force.

The differences between the two Schedules lie in the words printed in italics.

*Schedule C is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

*These words in italics were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, a. 19 (I), in Vol. III of this Code], for areas in which that section is in force.

*This word "Inspector" was substituted for the words "Public Vaccination" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, a. 19 (I), in Vol. III of this Code], for areas in which that section is in force.

of 1980.]

(Schedule E.)

If you wish to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

, 18

Dated the

of

Suprintendent of Vaccination, or Civil Surgeon (as the case may be). ..

SCHEDULE E.

(See section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

TAKE notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within one year from the date of its birth, under penalty.

TAKE notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within six months from the date of its birth, under penalty.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours

for vaccination at that station are as follows:-

(Here insert the days and the hours when the public vaccinator is in attendance.)

On your taking or causing the child to be taken to the public vaccinator at the said station within the said hours

¹ This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force. The difference between the two clauses lies in the words printed in italies.

3 This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

3 These words "six months" were substituted for the words "one year" by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 20(1), in Vol. III of this Code), for areas in which that section is in force.

[Ben. Act 5 of 1886.]

(Schedule F.)

on any of the said days, or at any other public vaccinestation in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

¹You should be careful to have one of the annexed forms of certificate filled in by the Public Vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a Public Vaccinator Inspector free of charge. ree of charge.

² You should be careful to have one of the annexed forms of certificate filled in by an Inspector, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by an

Dated the

of

, 18 .

Registrar of Births.

SCHEDULE F.

(See section 22.)

Register of Postponed Vaccinations for the district of

Consecutive number.	Name of child.	BIRTH. Namber of entry in register.		Date of certificate of postponement,	Signature of Regis- trar,
1	Ram Chunder Dass	1878	19	1878. May 10	н. о.

¹ This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences in the two clauses lie in the words printed in italics.

This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

These words an impactor were substituted for the words the Public Vaccinator by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 20(2), in Vol. III of this Code], for areas in which that section is in force.

BENGAL ACT 6 OF 1880

(THE BRIGAL DRAINAGE ACT, 1880).

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[Ben, Act 6 of 1880.]

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SCHEDULE A. SCHEDULE B.

BENGAL ACT 6 of 1880

(THE BENGAL DRAINAGE ACT, 1880). 1

(9th June, 1880.)

An Act to provide for the drainage and improvement of lands.

Whereas it is expedient that provision should be made Preamble. for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor Bengal2; It is hereby cuacted as follows:-

PRELIMINARY.

1. This Act may be called The Bengal Drainage Act, short title. 1880:

It extends to all the territories for the time being under the Extent. administration of the Lieutenant-Governor of Bengal?

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903 vide Act 10 of 1914, Sch. II.

2. Bengal Act 5 of 1871 (the Hooghly and Burdwan Repeal of Drain 'ge Act) shall be repealed on and from the date upon Bengal Act 5 which this Act comes into force; but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

3. In this Act, unless there be something repugnant in the Interpretasubject or context.-

"the Collector" means the officer in charge of the revenue "The Collect jurisdiction of the district within which the lands which form or." the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one or two or more districts, the Board of Revenue shall decide the point, and such decision shall be final:

1 LEGISLATIVE PAPERS -For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, p. 64; for Report of Select Committee, see ibid, 1880, Pt. IV, p. 100; and for Proceedings in Connell, see ibid, 1879, Supplement, pp. 331, 391 and 1448; ibid, 1880, Supplement, pp. 286, 894

and 409.

Local Extent.—This Act extends to the whole of the former Province of Bengal—see s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts

Regulation, 1900 (1 of 1900), a. 4 (2), printed in Vol. 1 of this Code.

Other Bractmanta.—As to the drainage of rural areas, see also the Bengal Irrigation Act, 1876

(Ben. Act 8 of 1876), ante, p. 318, and the Bengal Sanitary Drainage Act, 1886 (Ben. Act 8 of 1895), in Vol. III of this Code.

The Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), does not apply to any embankment, land or water-course which is under the operation of Bengal Act 6 of 1880—see Bengal Act 2 of 1882,

** 91. This includes the present Presidency of Fort William in Bengal and other territory.

* As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918)

Ben. Act 6

(Preliminary.—Sec. 3.)

"Certifiate officer.

1 "Certificate officer" means a Certificate officer as defined in clause (2) of section 4 of the Public Demands Recovery Act,

Ben. Act 1 of
1886.

" The Commissioners.'

"the Commissioners" mean the Drainage Commissioners to be appointed under this Act:

"Estate."

"estate" means land included under one entry in the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law i for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"proprietor" means a person who as owner is solely or

" Proprietor:"

jointly in possession of an estate:

" Tenure."

"tenure" means-

- (1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor and superior to that of a raiyat, extending to not less than one hundred standard bighas, affected, or to be affected, by any works under this Act;
- (2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest:

" Under tenure.

- "under-tenure" means-
- (1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a raiyat, extending to not less than one hundred standard bighas, affected or to be affected by any works under this Act;
- (2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest:

Explanation .- The term "permanent" is used with reference to the tenure or under-tenure itself, and not with reference to the person who happens to hold such tenure or under-tenure for the time being. A tenure or under-tenure is none the less permanent, although held by a Hindu widow a Sebait or a person subject to the Mitakshara law :

- "landholder" and "holder of land ' mean-
- (1) any person who as owner of an estate is solely or jointly in possession thereof:

¹ This definition of "Certificate officer" was inserted by the Bengal Drainage (Amendment) Act. 5902 (Ben. Act 2 of 1902), s. 2. in Vol. III of this Code.

Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1913 (Ben. Act 8 of 1918), and this reference should now be construed as a reference to cl. (3) of a 3 of the latter Act—set the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

Rat the Land Recievation Act 1874 (Ben. Act 2 acts)

See the Land Registration Act, 1876 (Ben. Act 7 of 1876), ante, p. 845.

(Preliminary.-Part I.-Appointment of Commissioners and Conduct of Business.—Sec. 4.)

(2) any person who as owner of a tenure or under-tenure is solely or jointly in possession thereof:

where two or more persons are joint landholders, they shall "Rechimed be jointly and severally liable under this Act, except as is

otherwise expressly provided herein:

"reclaimed land" means land which was unfit for cultiva"Improved tion before the execution of any works under this Act, but land." which has been rendered productive by such works:

"improved land" means land which was more or less fit "Part" and auditivation before the execution of any greater under "section." for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works:

"Part" and "section" mean, respectively, a Part and section of this Act.

PART I.

APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Whenever it appears expedient to the Lieutenant- Lieutenant-Governor to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor 1 may appoint 2 any number of persons, not less than seven, sioners. of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act;

and the Lieutenant-Governor 1 may, from time to time, remove or accept the resignation of any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying, resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

5. The Lieutenant-Governor shall from time to time Lieutenant. appoints one of the persons so appointed Commissioners as Governor aforesaid to be Chairman of the Commissioners, and may att chairman

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisse, and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. 1 of this Code.

2 Yor a list of appointments made under section 4 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

5 For a list of appointments made under section 5 for Bengal as constituted on the Sist March, 912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

Ben. Act 6

(Part I.—Appointment of Commissioners and Conduct of Business.—Secs. 6-10.)

any time, if he see fit revoke such appointment and appoint another of such persons to be Chairman.

The Commissioners may sue and be sued in the name of their Chairman.

Commissioners may sue and be sued in his name. Meetings of

and quorum.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter.

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

Extraordinary meetings. 7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

Presidency of meetings.

8. The Chairman shall preside at every meeting of the Commissioners; but, in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting.

Transaction of business at meetings.

9. (1) All questions at any meeting, including the question of adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes the President for the time being of such meeting shall have a second or casting vote.

Delegation of powers to Committee. (2) The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit. Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

Election of Chairman of Committee.

(3) A Committee may elect a Chairman at their meetings. If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

Adjournment, voting, etc., of Committee.

(4) A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a second or casting vote.

Power to appoint servants. casting vote.

10. The Chairman of the Commissioners may, by an order in writing, appoint and dismiss such servants and officers, other than engineers and their subordinates, as may be required for the purposes of this Act, and he may control them as he shall see fit.

There shall be paid to such servants and officers, respectively, such salaries as may appear to the Commissioners to be proper.

(Part I.-Appointment of Commissioners and Conduct of Busin'ss.—Part II.—Drainage Scheme.—Secs. 11-14.)

11. The Lieutenant-Governor¹ may, when satisfied that the objects of their appointment have been tultilled, direct that the powers and functions of the Commissioners shall cease.

When objects of their appointment failured, Lieutenant-Lieuten

may direct Commissio mission era' po wera and functions to cease.

PART 11.

DRAINAGE SCHEME.

12. The Commissioners shall, within three months after Commissiontheir appointment, cause a notification, in the language of the ers to cause a notification of district, to be published by beat of drum in every village in the scheme which may be situate any portion of the lands to be affected by published. the works proposed in such scheme and plans.

Every such notification shall be in the form in Schedule A hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional Officer, and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction, and at the thana within the limits of which such village is situate.

13. After the date named in such notification a list of the List of persons who may have given their assent or made any objection in writing in accordance with such notification shall be objects prepared and published, in the manner provided in section 12, be published. for the information of all concerned.

Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote, respectively; and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

14. (1) The Commissioners may, at some meeting to be Commissionheld not less than one month after such list has been published ers how to under the provisions of section 13, proceed to ascertain whether what the holders of half of the lands to be reclaimed or improved have assented have assented in writing to the adoption of the scheme.

For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected; and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriana and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items 1 and 2, in Vol. I of this Code.

Ben. Act 6

(Part II.—Drainage Scheme.—Secs. 15, 16.)

in respect of such area the vote of any superior landholder who may have voted.

Example-

A gives his vote as proprietor of 5,000 bighas;

B, as patnidar of 2,000 bighas included in A's proprietary of 5,000 bighas;

C, as mukurraridar of 100 bighas included in B's patni;

D, as holding a permanent jama of 500 bighas included in Λ's proprietary of 5,000 bighas; but not in B's patni of 2,000 bighas:

the Commissioners shall take into account the votes of the respective landholders in respect of the following areas:—

					Bighas.
D fo	or	•••	•••	•••	500
С,		•••	•••	•••	100
В,	(2,000-100=)	•••	•••	•••	1,900
٨.,	(5,000-2,000-500=)		•••		2,500
			Total		5,000

Vote for estate, tenure, etc., held by two or more co-sharers. (2) One vote only shall be allowed in respect of an estate, tenure or under-tenure belonging to two or more co-sharers.

In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote.

If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or undertenure.

If the majority object, a vote of objection shall be deemed to have been given.

If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or under-tenure.

15. The Commissioners may, in their discretion, refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him and the nature of the interest which he has in such land.

16. (1) Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land; and their determination shall be final for the purposes of section 17:

Provided that any "recorded proprietor," as defined by section 3 of the Land Registration Act, 1876, shall be entitled

Ben. Act 7 of 1876.

Persons voting to specify the extent of their lands.

Commissioners to decide who is entitled to vote.

(Part II.—Drainage Scheme.—Secs. 17-20.)

to vote in respect of any property of which he is the recorded proprietor.

(2) In the case of a landholder who is a proprietor disquali- Vote for fied to manage his own property under the provisions of the held by a Court of Wards Act, 1879,1 or any similar law for the time min being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards, or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or

(3) Where the holder of any land cannot be found, such case of land land shall be altogether excluded in any computation that may noider found. be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

17. If the landholders of not less than half of the area to mail of the landholders of not less than half of the area to mail and landholders be reclaimed or improved, ascertained as above provided, shall landholders have assented to the adoption of the scheme, and not otherwise, missioners the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, submitted. and shall further consider such objections as have been made thereto; and may adopt such schemes,2 plans and estimates or may after and modify the same and adopt the scheme, plans and estimates so altered or modified, or may disapprove or reject the same.

18. If the landholders of half of the area to be reclaimed Power to and improved do not assent to such scheme, but the landholders portion of of half the area to be affected by some portion of such scheme. scheme assent thereto, the Commissioners may re-submit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid.

19. If the Commissioners adopt such scheme, plans and scheme estimates, or any modification or alteration thereof, they shall, approved by some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Light and the same to be laid before the light and the laid before th them, cause the same to be laid before the Lieutenant-Lieutenant-Governor1;

and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

20. (1) The Commissioners may, with the previous assent Power to of the Lieutenant-Governor, at any time re-consider any sobeme and

Printed ante, page 406.
 Sic. Read scheme.
 Now the Governor in Coancil of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sob. D, items 1 and 2, in Vol. I of this Code.

(Part II.—Drainage Scheme.—Secs. 21, 22.)

scheme, plans or estimates adopted by them, and add to, after or modify the same;

and, when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor¹.

The Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit:

and, thenceforth the provisions of this Act shall apply to such addition, alteration or modification as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

(2) No addition, alteration or modification, under clause (1), to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published, for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification;

nor shall any such addition, alteration or modification be adopted unless the landholders of not less than half the entire area to be affected by the scheme as so added to, altered or modified, assent to the same.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of the Land Acquisition Act, 1870, or any other law for the time 10 of 1870. being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof.

22. The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor1;

and may, subject to the sanction to the Governor General of India in Council, order the advance from the public funds of such sum of money as may be required for the purpose of making such improvements:

Lieutenant-Governor may order scheme

Power for the acquisi-tion of land.

Publication of modified scheme.

^{. 1} Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

8 See now the Land Acquisition Act, 1894 (1 of 1894), which repeals and re-enacts the Act of 1870. The Act of 1894 in printed in the General Acts, 1887-97, Ed. 1909, p. 863.

(Part II.—Drainage Scheme.—Secs. 23, 24.)

and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

23. The Lieutenant-Governor may, at any time after the Powerto Lieusaid works have been commenced, by an order sanction any alteration or modification of such scheme or plan suggested to modify him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon than would be incurred in the scheme as originally

and, after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners, in substitution for the portion of such scheme thereby altered:

and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

24. (1) Any person who alleges that damage has been Chaims to comcaused to his property by any scheme or works commenced damage or carried out under this Act may, at any time before the caused in expiry of the three years mentioned in clause (1) of section 28 carrying out prefer to the Commissioners a claim for compensation in works. respect of such damage actually caused, and of all future damage likely to be caused, to such property by such scheme or works.

The Commissioners shall duly consider any such claim; Compensation and, if they are satisfied that such damage has been caused or to be assessed and, if is likely to be caused, they shall assess such compensation as missioners. to them appears fair and reasonable.

If such person agrees to accept the amount so assessed, the same shall be paid to him.

If he do not agree to accept such amount, the Commissioners Reference to shall make a reference to the Civil Court in the manner in famount which a Collector is empowered to make a reference by assessed be section 15 of the Land Acquisition Act, 18702 and the provi- not accepted. sions of Part III of the said Act shall apply to any reference so made.

(2) When the persons interested in such property, to which Beference to damage has been caused as aforesaid, agree to accept the where amount amount of compensation assessed by the Commissioners, but a of compensation dispute arises as to the apportionment of the same or any part the confines of the same or any part thereof.

as to its

10 of 1870.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

3 These references to Act 10 of 1870 should now be construed as references to the corresponding portions of the Land Acquisition Act, 1894 (1 of 1894)—see s. 2 (3) of the latter Act, in the General Acts, 1887-97, Ed. 1909, p. 884.

(Part III.—Expenditure and Apportionment.— Secs. 25-26A.)

or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises,

the Commissioners shall refer such dispute to the decision

of the Civil Court;

and the provisions of Part IV of the said Land Acquisition 10 of 1870.

Act 1 shall apply to any reference so made.

(3) When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district; and such Subordinate Judge shall have power to hear and dispose

and any reference made under clause (2) of this section may be transferred by such principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

____ PART III.

EXPENDITURE AND APPORTIONMENT.

Cost of compensation, etc., to be deemed part of expense of construction, Buch expense may be defrayed by advances from the public funds.

Reference may in cer-tain cases be

transferred to Subordinate

Judge or Munsif for

disposal.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the public funds as provided by section 22.

226. Interest shall be charged on all such advances until the same have been recovered.

26A. (1) In every case in which the charging of interest is authorized by this Act, the rate chargeable shall be four per centum per annum.

(2) No compound interest shall be charged in any case.

Explanation.—The interest recoverable from a tenant under section 42, clause (b), section 43, clause (b), section 44 α shall not be deemed to be "compound interest" within the meaning of this section, although it includes simple interest upon interest which has been paid by a landholder or superior tenent in pursuance of this Act.

charged on such ad-PANCAL Rate of interest, and barring of compound interest.

Interest to be

¹ These references to Act 10 of 1870 should now be construed as references to the corresponding portions of the Land Acquisition Act, 1894 (1 of 1894)—sec s. 2 (3) of the latter Act, in the General Acts, 1887-97, Ed. 1909, p. 364.

§ These excitoss 25 and 26A were substituted for the original section 28 by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), c. 3, in Vol. III of this Code.

(Part III.—Expenditure and Apportionment.—Secs. 27-29.)

27. The officer in charge of the said works shall, until the Reports to be same shall be finally completed, once in every three months expenditur; make a detailed report to the Commissioners of the progress of certified. such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down:

and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances;

and every such certificate shall be final and conclusive evidence in a Civil Court, or in any proceedings under this Act, of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

28. (1) The officer in charge of the works shall, as soon as Commisthey have been completed, certify such completion to the Com- stoners upon missioners;

and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify lands class fy all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the improved lands from the reclaimed lands.

It shall be lawful for the Commissioners at any time during lands and such three years to make such inspections of the lands, and lands. such surveys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification and of the apportionment hereinafter mentioned.

(2) The Commissioners shall, after making such classifi- Cost of cation, proceed further to apportion the total cost of construction, together with [interest] upon the improved lands and to be apportioned upon reclaimed lands, and shall draw up a statement showing the the improved amount payable to the Collector by each landholder-

(a) in respect of his improved lands, if any, and

(b) in respect of his reclaimed lands, if any.

In making this apportionment the Commissioners shall, as Amount payfar as may be possible, make payable in respect of each plot or his fine proved field of improved land a sum not exceeding the amount of the lands not to increased capitalized value which, in the opinion of the Com- of improvemissioners, has been conferred on such land by the works.

29. (Adjustment of excess or deficient payments of interest). Rep. by the Bengal Dr inage (Amendment) Act, 1902 (Ben.

Act 2 of 1902), s. 5.

from comple ing bet ween improved

construction, with interest. reclaimed lands.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assem Laws Act, 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code.

The word "interest" in s. 28 (2) was substituted for the words and figures "the interest mentioned in section 25" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 4, in Vol. III of this Code.

(Part III.—Expenditure and Apportionment.—Secs. 30-33.)

When the land is part of a tenure, etc., Commisdeclare who shall he deemed liable as landholders.

Amounts made payable to be a charge upon the improved lands and reclaimed lands respectively. Secre-tary of State for India in Council to have a per-petual lien for their recovery. Commissioners to report appor-

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section 28, forms part of a tenure, and of a tenure and of an under-tenure. it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure or of the under-tenure shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

31. The total sum so made payable in respect of the improved lands of any one landholder, and the total sum on made payable in respect of the reclaimed lands of any one landholder with interest from the date of apportionment, shall be a first charge upon such improved lands and upon such reclaimed lands respectively.

such charge shall not be avoided by the sale of such lands or of any estate, tenure or under-tenure within which they are included, for arrears of revenue or rent.

32. The Commissioners shall, so soon as conveniently may be after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a report describing the several lands in respect of which they have declared such sums to be payable, the names of the respective holders thereof who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same.

Every such report shall distinguish between the reclaimed lands and the improved lands, and shall classify the latter according to the extent of the improvement.

A copy of such report shall be sent through the Collector to the Commissioner of the Division, for confirmation by such Commissioner.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the apportionment of the sums payable as aforesaid, or to make such report as aforesaid,

or, for the space of two months after any report and apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required.

the Collector may serve them with a notice requiring them to proceed as aforesaid:

In default of Commis-sioners, officer appointed by Lieutenant-Governor to make apportionment and

¹ The figures and word "26 or," were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

⁹ The words "upon such sums at five per centum per annum," were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

⁸ The words and figures "and any interest payable under section 39, and any interest payable under clause (I) of section 26, but not paid or recovered before the apportionment under section 28," were repealed by the Bengal Drainage (Amendment) Act. 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

(Part III.—Expenditure and Apportionment.—Secs. 34, 35.)

and, if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor 1 may appoint such officer or officers as to him shall seem fit, to make or consider and revise such apportionment and report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such apportionment and report:

and every apportionment and report so made or revised, and every such act so done, shall have the same force and effect as if the same had been made, revised or done by the Commissioners.

34. Whenever any apportionment and report have been report to be made in pursuance of the provisions hereinbefore contained, published. the Commissioners shall cause such report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police thana within the limits of which, such village, or any part thereof, is situate.

The fact of such apportionment and report having been made, and such copies having been affixed, shall also be notified. by beat of drum in every such village.

35. Any person who may deem himself to be aggrieved by Appeal any such apportionment may, within one month after such against apportionment, report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to inquire into and decide upon such objection ;

and any person who is dissatisfied with such decision may, within one month from the date of such decision, appeal to the Commissioner of the Division against such apportionment;

and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police-thana within the limits of which, any of the lands mentioned in such report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision:

Provided that the total sum apportioned by every apportionment and report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works -

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Buhar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part III.—Expenditure and Apportionment.—Secs. 36, 36A.)

shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such apportionment and report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal, in like manner as the original apportionment and report.

The decision of the Commissioner of the Division upon any

appeal under this section shall be final.

Final determination of apportionment. 36. Whenever the Commissioner of the Division shall confirm any apportionment and report, or whenever one month shall have elapsed from the publication of any report without any appeal therefrom having been preferred.

any appeal therefrom having been preferred, he shall pass an order declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be

published in such manner as to him shall seem fit.

Power to add to, or alter, declaration as to names of persons limble to pay.

- ² **36A.** (1) If any order passed under section 36, so far as it declares what persons are liable to pay any sum under this Act in respect of any land, appears at any time to require revision—
- (a) by reason of the omission of the name of any co-sharer of such land, or
 - (b) by reason of any change having taken place in the ownership or joint owner-ship of such land, or
 - (c) for any other substantial reason,

the Collector may, on the application of any holder of the land or of his own motion, and after such inquiry and upon such conditions (if any) as he may think proper, add to or alter such order:

Provided that every person whose name is so added or who is materially affected by any such alteration has had an opportunity of being heard by the Collector.

- (2) Any person who is dissatisfied with any addition or alteration made under sub-section (1) may, within one month after the same was made, appeal to the Commissioner of the Division.
- (3) The Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published in the manner prescribed by section 35; and shall, on the day so fixed, hear such appeal and all objections thereto advanced by persons interested and may confirm or revise the addition or alteration, or may remit the case to the Collector for further consideration and revision.

As to the revision of past orders under a. 36, in respect of the Howrah and Rajapur Drainage Schemes, in order to reduce charges for interest and other charges, see the Bengal Drainage (Amendment) Act, 1903 (Ben. Act 2 of 1902), ss. 15 and 19, in Vol III of this Code.

Section 36 A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 6, in Vol. III of this Code.

(Part IV.—Recovery of sums due to the Collector.— Secs. 37, 38.)

- (4) The decision of the Commissioner on any such appeal shall be final.
- (6) Every addition and alteration made under this section shall be published, in such manner as to the Collector may seem fit, after the expiration of one month-
 - (i) from the time when the addition or alteration was made.
 - (ii) if any appeal has been preferred under sub-section (2), from the decision of the appeal;

and the addition or alteration shall take effect from the date of such publication; and proceedings may thereupon be taken under this Act, in respect of such addition or alteration, as if a new order embodying it had been made under section 36.

PART IV.

RECOVERY OF SUMS DUE TO THE COLLECTOR.

37. As soon as any apportionment has been determined as collector to aforesaid, the Collector may cause a notice in the form in serve notice of apportion.

Schedule B hereto annexed to be served upon any landholder.

who has not paid the sum payable by him. who has not paid the sum payable by him. in payment or engageSuch notice shall require such landholder, within one ment to pay.

month from the date of '[the service thereof] upon him, to pay such sum, with interest 2 [up to the day of payment,] or to enter into an engagement for the payment, by instalments extending over a period of not more than ten years, of such sum, together with interest * * * on all instalments remaining unpaid at the date of such payment.

38. If any landholder fails to discharge the sum made If amount not payable in respect of his improved lands or in respect of his discharged, the Collector reclaimed lands, or fails to enter into an engagement for the may recover it payment thereof as in this Act hereafter provided, or, having demand. entered into such an engagement, fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest * * * *, shall be recoverable under the provisions of any law for the time being in force for the recovery of public demands.

¹ The words "the service thereof," in s. 87, were substituted for the words "its service" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (1), in Vol. III of this Code.

*The words "up to the day of payment," in s. 87, were substituted for the words "at the rate of five per centum per annum" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (2), in Vol. III of this Code.

*The words "at the said rate", in s. 87, were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (2), and are omitted.

*The words "thereupon at five per centum per annum", in s. 88, were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

*See now the Bengal Public Demands Becovery Act, 1918 (Ben. Act 3 of 1918), in Vol. III of this Code.

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(Part IV.-Recovery of sums due to the Collector.— Part IVA.—Recovery of share of payments from Co-sharers.—Secs. 39-41A.)

Collector may sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the improved or reclaimed lands.

- 39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or, having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—
 - (a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such improved lands or reclaimed lands;
 - (b) by mortgaging the whole or any part of such improved lands or reclaimed lands ;
 - (c) by letting in farm or managing by himself or another the whole or any part of such improved lands or reclaimed lands; or
 - (d) partly by one of such modes and partly by another or others of them.

For the purposes of this section, the Collector may exercise all the powers of the owner of such improved or reclaimed lands; and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery of nnrealis portion of

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

Power to repay advances.

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay' to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment; and thenceforth the said engagement shall be terminated, and all liabilities in respect thereof for principal or interest shall determine.

PART IV A.

RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS.

Power to recover share of payments co-sharers.

41 A. When any landholder has made any payment under the foregoing provisions of this Act in respect of land which

1 As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

2 As to refunding or crediting to landholders reductions to be made in past charges in respect of the Howrah and Rajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), ss. 16 and 19, in Vol. III of this Code.

2 Part V A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, in Vol. III of this Code.

4 As to the application of s. 41 A for the recovery of money paid for the maintenance of works, as to the application of s. 41 A to certain claims which had already accrued in respect of the Bowrah and Rajapur Drainage Scheme, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1903), s. 14, in Vol. III of this Code.

(Part V.-Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.—Sec. 42.)

he holds jointly with other persons, and such payment exceeds the amount which is proportionate to his individual interest in the land, he may-

- (a) recover from his co-sharers, respectively, such contributions towards such payment as are proportionate to their individual interests in the land, either-
 - (i) in the same manner in which arrears of rent are recoverable under the Bengal Tenancy Act, 1885,1 and under similar penalties, or,
 - (ii) if such co-sharers have been declared by any order passed under section 36 or revised under section 36 A to be liable to pay—upon application to the Collector as hereinafter provided; or
- (b) take credit for such contributions as aforesaid in any adjustment of accounts between himself and his co-sharers.

PART V.

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42. Every landholder who has been charged with any sum Proprietor by a report published as aforesaid may, after he has paid or from engaged to pay the same,-

tenants.

- (a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land the productive powers of which have been increased by any works carried out under this Act: provided that any such person may at his option elect to pay under clause (b) of this section; or
- (b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest * * * from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.
- (c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such

l of 1886.

¹ Printed in Vol. I of this Code.
² The words "at the rate of five per centum per annum," in s. 42 (b), were repealed by the Bengal Drainage (Amendment) Act, 1802 (Ben. Act. 9 of 1902) s. δ₇ and are omitted.

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(Part V.—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.—Secs. 43, 44.)

landholder in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

Recovery by superior tenant.

- **43.** Any superior tenant, who has made any payment to a landholder under the provisions of clause (b) of section 42, may—
 - (a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act: provided that any such person may at his option elect to pay under clause (b) of this section; or
 - (b) recover the sum or part of the sum which has been so paid by him according to the proportions section 42, to the rules laid down in clause (c) of and subject with interest • ¹ from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

Mode and time of payment. **44.** (1) The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent.

Provision in case of dispute as to the amount to be paid.

(2) If such landholder or superior tenant and any person holding lauds directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person, through the Collector, with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more then ten years, or appear before the Collector and object.

¹ The words "at the rate of five per centum per canama," in a. 48 (b), were repealed by the Bengal Drainage (Amendment) Ace, 1902 (Ben. Act 2 of 1902), a. 5, and are emissed.

(Part V.—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.— Sec. 44A.)

(3) If such person do not within the said period of one Collector to month appear and object, the amount set forth in such notice decide objecshall be recoverable, with interest * *

If such person appear and object, the Collector shall dispose of such objection, and his decision shall be flual.

The Collector may direct that any sum of money payable under his decision, together with any cost awarded by him, be paid by instalments extending over a period of not more than ten years.

The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

344A. (1) If any landholder or superior tenant has made Rocovery, any payment under the foregoing provisions of this Act in under the certificate prorespect of lands which are or were held by tenants immediately cedure, of from him, and which have been benefited by any scheme or payments made in res works carried out under this Act,

and if he has not enhanced the rent of such tenants under tenants section 42, clause (a), or section 43, clause (a), or recovered under section 42, clause (b), section 43, clause (b), or section 44 the sums due to him,

he may, upon application to the Collector as hereinafter provided, but subject to the provisions of sub-section (1) of section 44 as to instalments, recover from such tenants, such sums as he may be entitled to according to the proportion and under the rules laid down in clause (c) of section 42, with interest from the date of such payment.

- (2) An application in respect of a payment may be made under this section by a landholder who was declared by an order passed under section 36 to be liable to make such payment, although his name has been removed, by an order made under section 36A from the list of persons declared liable to make payments.
- (3) If any tenants referred to in sub-section (1) have transferred their tenancies, the sums referred to in that sub-section may be recovered thereunder-
 - (a) from the said tenants for the period during which they occupied the benefited land since the carrying out of the said scheme or works, or
 - (b) from the tenants in possession.

¹ The words "at five per cankers per gamess," in s. 44 (2), were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

8 Sic. Read coats.

8 Section 44A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1922), s. 9, in Vol. III of this Code.

As to the application of s. 44A for the recovery of money paid for the maintenance of works,

see s. 43 (7), port p. 511.

As to the application of s. 44A to certain claims which had already accrued in respect of the Howrah and Rajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, in Vol. III of this Code

(Part V.—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.-Part VI.—Miscellaneous.—Secs. 44B-47.)

Bar to recovery of money from tenants in certain cases

- ¹44B. Notwithstanding anything hereinbefore contained, no sum shall be recoverable under section 42, clause (b), section 43, clause (b), section 41 or section 44A. in respect of any lands which have been benefited by any scheme or works carried out under this Act, when, in consequence of such scheme or works-
 - (a) the rent of such lands has been increased, or
 - (b) rent has for the first time been imposed on such lands.

Proviso.

45. No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43 ²[or under section 44A] shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

PART VI.

MISCELLANEOUS.

Drainage works to be subject to the laws relating to embankments.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith, shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels and outlets.

Lands and works to be rested in hehalf of Secretary of State.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut shall be vested in the Collector of the district for the time being, on behalf of the Secretary of State for India, in order to effectuate and maintain the objects of this Act;

and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election by the landholders aforesaid of, a Committee consisting of not

¹ Section 44B was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902)
s. 9, in Vol. III of this Code.
2 These words and figures in square brackets in s. 45 were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 10, in Vol. III of this Code.
As to refunding or crediting to tenants reductions to be made in past charges in respect of the Rowarh and Rajapur Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 17 to 19, in Vol. III of this Code.
2 Section 21 of the Bengal Embankment Act 1882 (Ben. Act 2 of 1882, post, p., 651), declares nothing in that Act shall apply to any embankment, land or water-course which is under the operation of the present Act.
4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act. 1912 (7 of 1912), s. 3. and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part VI.-Miscellaneous.-Sec. 48.)

less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

48. (1) The expense of keeping in efficient order and repair cont of any improvements or works effected under this Act shall be maintenant of works. charged to the profits from the property vested in the Collector under section 47;

and, if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original contribution by the holders for the time being of the land which have been benefited by such works:

and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39;

and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43 as the case may be, '[and for that purpose the procedure prescribed by section 41A or section 44A and sections 51B and 51C shall be applicable].

(2) Any such amount as is specified in section 25 which, Recovery of from oversight or other cause, has been omitted from the omitted from apportionment and report made under section 32 or section 33, apportionment. may be charged and recovered under the provisions of clause (1) of this section.

(3) If, on the first day of January next before the last sur instalments payable under the provisions of section 36 are due, properly rested in there is, after providing for the expense of keeping in efficient vested in Collector order and repair the improvements and works executed under under this Act, a surplus of the profits from the property vested section 47 in the Collector under section 47,

such surplus, or as much thereof as will suffice, shall be appropriated to the liquidation of the said last instalments.

Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at '[four] per centum per annum.

(4) The Lieutenant-Governor may at any time, in his Cost of discretion, direct that the total average annual expense, which may be over and above such profits as aforesaid is necessary to keep capitali such improvements and works in efficient order and repair, capitalized be estimated, and that there be levied from such landholders, amoun in lieu of all future contributions to the maintenance of such improvements and works such amount as, being invested in Government securities at the current rate of interest, shall yield

profits from appropriated Government.

¹ Sic. Read lands.

¹ Sic. Nead same.

² These words and figures in square brackets, in s. 48 (1), were added by the Bengal Dratnage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 11 (1), in Vol. III of this Code.

² The word "four," in s. 48 (3), was substituted for the word "five" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 11 (2), in Vol. III of this Code.

⁴ Slow the Governor in Council of Fort William in Bengal—see the Bengal Bibar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part VI.—Miscellaneous.—Secs. 49-51A.)

a sum equal to such average annual expense. The provisions of sections 31, 38 and 39 shall apply to such capitalized amount.

Powers for taking evidence.

The Commissioners, the Commissioner of the Division, 49. and every officer appointed by the Lieutenant-Governor under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure for compelling the attendance of 10 o witnesses and the production of evidence, and for examining witnesses in any inquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

Rent-free lands may be deemed tenures.

50. Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's general register of revenuefree lands, may, for the purposes of this Act, be deemed to form a tenure or under-tenure held immediately from some landholder; and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure:

Provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder, in respect of such lands, within the meaning of this Act.

Sum payable by holder of rent-free land

51. Wherever any land, as mentioned in the last preceding section, shall be deemed to form a tenure or under-tenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the Division may fix.

Such Commissioner shall cause due notice to be given in

the villages concerned of the dates so fixed by him.

³51A. Any person who has been determined under section 50 to be the landholder in respect of land, held free of rent or revenue, which has benefited by any scheme or works carried out under this Act, and who has made any payment under the foregoing provisions of this Act in respect of such land, may, upon application to the Collector as hereinafter provided, but subject to the provisions of section 51, recover the amount of

Recovery under the certificate procedure, of payments made in respect of land held free of rent or revenue.

to be payable in two

instalments.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁸ Act 10 of 1877 was repealed by Act 14 of 1882 which has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

*Sections 51A and 51B were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 8 of 1902), s. 12, in Vol. III of this Code.

As to the application of as 51A and 51B to correct claims which had stready account in parameter.

Act 3 of 1903), s. 12, in Vol. III of this Code.

As to the application of ss. 51A and 51B to certain claims which had already accrued in respect of the Howrah and Rajapur Drainage Schemes, see s. 14 of the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

As to refunding or orediting to tenants reductions to be made in past charges in respect of those schemes, see ss. 17 to 19 of the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

As to the application of s. 51B for the recovery of money paid for the maintenance of works, see ss. 48 (2) axis, p. 511.

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(Part VI.-Miscellaneous.-Sec. 51B.)

such payment from any person holding such land immediately below him.

¹51B. (1) Every application to the Collector under section Further pro-41A for the recovery of contributions from co-sharers towards a visions as to applications payment made by a landholder under the foregoing provisions inder section 11A, 44A or of this Act must-

- (a) be made within six months after such payment was made, and
- (b) specify the amount of such payment, and the amount of such contributions due from each co-sharer.
- (2) Every application to the Collector under section 44A or section 51A for the recovery of sums due, from tenants of, or persons holding lands benefited by any scheme or works carried out under this Act, on account of any payment made by the applicant under the foregoing provisions of this Act
 - (c) be made within six months after such sums became
 - (d) specify the amount of such payment, and the date on which it was made,
 - (e) specify the amount of such sums due from each tenant or person holding land, and the date on which it became due, and
 - (f) be accompanied by a declaration, signed by the applicant and stating-
 - (i) that he has not, on account of the said scheme or works, enhanced the rent, if any, payable in respect of the said lands or any of them. and
 - (ii) that he has not taken from such tenants or persons holding land, or any of them, any premium on account of such scheme or works.
- (3) Every application under section 41A, section 44A or section 51A must-
 - (g) be signed and verified in the manner provided by sections 51 and 52 of the Code of Civil Procedure? for the signature and verification of plaints,

14 of 1882.

¹ See footnote ¹ on page 512, carie.
² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rules 14 and 15 in Order VI in 8ch. I to the latter Code—see a. 158 thereof, in General Acts, 1904-09, Ed.1999, p. 184.

| Ben, Act 6

(Part VI.—Miscellaneous.—Sec. 51C.)

(h) be accompanied by a court-fee of eight annas, and

(i) request the Collector to make a certificate authorizing the recovery of the said contributions or sums, as the case may be, under the Public Demands Recovery Act. 1895 1.

Ben. Act 1 of

(4) Every declaration made under clause (f) shall, for the purposes of section 1992 of the Indian Penal Code, be deemed 45 of 1860. to be a declaration which the Collector is authorized by law to receive as evidence.

(5) If the Collector at any time has reason to believe that any declaration accompanying an application as aforesaid, or any part thereof, is false, he may reject the application and leave the applicant to pursue his claim in a Civil Court.

³ **51C.** (1) Upon receiving any such application, the Collector may, if he thinks fit, make a certificate as aforesaid.

(2) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the same notices shall be issued, and Ben. Act 1 of the same proceedings may be taken, with respect thereto, by the Certificate Officer, as in the case of a certificate made under that section.

- (3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost, and on his responsibility, and not otherwise.
- (4) If any person against whom any such certificate is made objects that the contributions or sums claimed by the person who applied for the certificate, are not legally due, or exceed the sums which the applicant could recover from him in a Civil Court as being payable in respect of his individual interest in the land, and if the Certificate Officer considers there is probable ground for such objection, the Certificate Officer may modify the certificate or, if he thinks fit, cancel the certificate and leave the applicant to pursue his claim in a Civil Court.

Grant of

thereof. .

certificate.

¹ Ben. Act 1 of 1896 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 2 of 1918), and this reference should now be construed as a reference to the corresponding portion of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

2 Printed in the General Acts, 1834-67, Ed. 1909, p. 298.

3 Section 510 was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1909), s. 12, in Vol. III of this Code.

As to the application of the section for the recovery of money paid for the maintenance of works, see s. 48 (I), ante, p. 511.

As to its application to certain claims which had already accrued in respect of the Howrah and Rajapar Drainage Sehemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, in Vol. III of Shis Code.

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(Part VI.-Miscellaneous.-Secs. 51D-51J.)

151D. (1) If, in any area benefited by any scheme or works Power of Collector to carried out under this Act, there has occurred in any year a suspend r total or serious failure of crops, then, notwithstanding anything covery of due in case of hereinbefore contained, the Collector may,

after such inquiry (if any) as he deems necessary, and with the previous sanction of the Commissioner of the Division.

by written order, suspend for the whole or any part of that year, the recovery of all or any sums which are recoverable from landholders and tenants, respectively, in respect of such area under the foregoing provisions of this Act.

(2) Every such order shall be published in the manner prescribed in section 12 for the publication of the notification referred to in that section.

(3) When any such order has been duly published, all pro-3en. Act 1 of ceedings under the Public Demands Recovery Act 1895, and all suits by landholders or tenants, for the recovery of any sums to which such order relates, shall be stayed during the period specified in the order.

*51E. An order duly made and published under section diction of Barto jurishing by shall not be questioned in any Civil or Revenue Court.

Barto jurishing the diction of Courts in 51D shall not be questioned in any Civil or Revenue Court.

³ 51F. If any landholder or tenant, during any period Procedure specified in an order duly made and published under section when land holder or 51D, collects any sums payable to him to which such order tenant collects relates, then all sums payable by him to which such order period of relates may be recovered from him as if such order had not suspension. been made.

³ 51G. When an order has been duly made and published Extension of under section 51D, suspending the recovery of any sums for period for any period, then, if such sums form part of a sum which is, in instalments any period, then, it such sums form part of a sum which is, in when order pursuance of this Act, payable by instalments, the period of suspension remaining for the payment of such instalments shall be extend- made. ed by the period, specified in such order, and no more than one instalment of the sum remaining due shall be payable in any succeeding year.

51H. When an order has been duly made and published Extension of under section 51D, suspending the recovery of any sums for imitation, any period, such period shall be excluded in computing the when order period of limitation prescribed for a suit or application for the made. recovery of such sums.

511. When an order has been duly made and published Interest not under section 51D, suspending the recovery of any sums for during period for any period, then, notwithstanding anything hereinbefore of any

anguenaion

¹ Section 51D was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, in Vol. III of this Code.

1 Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1913), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this

Code. Sections 51E to 51J were inserted by the Bengal Drainage (Amendment) Act, 1903 (Ben, Act 2 of 1902). e. 12, in Vol. III of this Code.

(Part VI.-Miscellaneous.-Secs. 52-56.)

contained, no interest shall accrue on such sums during such period.

Service of

52. All notices under this Act required to be served, may be served by delivering the same to the person to be served or by posting the same upon the door of his dwelling-house, or, if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police-thana within the limits of which, such land is situate.

Proceedings not to be invalidated by formal errors. **53.** No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission:

and every order and report of the Commissioners, of the Collector and of any officer appointed by the Lieutenant-Governor¹ under section 33 shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

Portion of scheme may be deemed separate scheme.

54. The Lieutenant-Governor may, by an order in writing, direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

Lieutenant-; Governor may empower other person to act for Collector.

55. The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act;

and, on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and

poses of the scheme in respect of which he is so especially empowered.

Collector may delegate authority.

56. The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy, Assistant or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

such person shall be deemed to be the Collector for the pur-

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriesa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Boh. D, itsms 1 and 2, in Vol. I of this Code. ² For an order made under section 55 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Bistuttory Rules and Orders, 1912, Vol. I. Pt. VI.

of 1000.]

(Part VI.-Miscellaneous.-Part VII.-Special provisions for works carried out under Bengal Act 5 of 1871.—Secs. 57-63.)

and may exercise any powers for the performance of the same which the Collector may exercise under this Act:

Provided that all acts done, functions discharged and powers exercised by such officer shall be done, discharged or exercised subject to the control and supervision of the Collector.

57. Notwithstanding anything hereinbefore contained, all Commissioner. the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division.

58. The Lieutenant-Governor may, from time to time, Power to make, alter and cancel make rules' to regulate the following matters:-

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done:

(c) and generally to carry out the provisions in this Act.

The Lieutenant-Governor may from time to time alter or cancel any rules so made.

Such rules, alterations and cancelment shall be published in Publication the Calcutta Gazette, and shall thereupon have the force of of rules. law.

PART VII.

SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER BENGAL ACT 5 OF 1871.4

59. The following portions of this Act shall apply to any Portions of scheme or works carried out under the provisions of Bengal Act 5 of 1871, that is to say:

(a) as to the method of realizing sums due on account of Bengal Act 5 of 1871. the cost of the works-sections 31, 38, 39 and 40;

(b) as to the recovery by landholders or superior tenants of the cost of the works from persons holding land under them— Part V;

(c) as to other matters-Part VI.

60 to 63. (Revision of apportionment of cost of scheme or works carried out under Bengal Act 5 of 1871; Commissioners

1 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisas and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.

§ For rules made under section 68, for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ Sic. Resd and the time.

4 Ban. Act 5 of 1871 was repealed by this Act-ses s. 2, cate, p. 491.

this Act applicable to out und

Ben. Act 6

(Schedule A.)

to be guided in making such revision by certain provisions of this Act; Power of Commissioners to increase or reduce apportionment; Appeal; Finality of revised apportionment; Realization of sums due thereunder). Rep. by the Repeating and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. 11.

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BENGAL DRAINAGE ACT, 1880.

To all whom it may concern.

TAKE notice that it is proposed to drain and improve certain lands in the village of pargina. Plans and provisional estimates of the works proposed are now lodged in and may be inspected by any person interested on any of the days and at any of the times specified below till the day of next. (Here specify the days and hours at which the plans and the estimates will be open to inspection.)

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue-free lands borne on the Collector's general register of revenue-free lands, which may be so affected,

all persons having permanent rent-paying interests in tenures, under-tenures, or lands extending to not less than one hundred standard *bighas* to be so affected,

and all persons having permanent rent-free interest in tenures, under-tenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates.

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18

Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds and the tenure or interest which he has in the same.

Collector, for the Drainage Commissioners.

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(Schedule B.)

SCHEDULE B (referred to in section 37).

BENGAL DRAINAGE ACT, 1880.

To Take notice that the Drainage Commissioners have apportioned against you the sum of as your contribution in respect of the lands of that you are hereby required, within one month from the date of the service of this notice, to pay to me the said sum of Rs. , together with interest at the rate of '[four] per centum per annum from the day of . or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years '[together with simple interest, at the rate of four per centum per annum, on all instalments remaining unpaid at the date of each such payment].

¹The word "four" in Schedule B was substituted for the word "five" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 18 (1), in Vol. III of the Code.

² These words in square brackets in Schedule B were added by the Bengal Drainage (Amendment) Act. 1902 (Ben. Act 2 of 1992), s. 13 (2), in Vol. III of this Code.

BENGAL ACT 9 OF 1880

(THE CESS ACT, 1880).

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BENGAL ACT 9 OF 1880

(THE CESS ACT, 1880).1

(13th October, 1880.)

An Act to amend and consolidate the Law relating to Rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

Whereas it is expedient to amend and consolidate the law Preamble. relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal, 2 and to the levy of a road cess and a public works cess on immovable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess; It is hereby enacted as follows :-

PRELIMINARY.

1. This Act may be called the Cess Act, 1880;

Short title.

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. II.

¹ LRGIBLATIVE PAPERS.—For Proceedings in Council, see Calcutta Gazette, 1879, Supplement, p. 1508; 564, 1860, Supplement, pp. 46, 291, 323, 379, 406 and 948.

LOCAL EXTENT.—This Act was passed for the former Province of Bengal (see the preamble) and took effect from its commencement in all districts which are now comprised in the Presidency of Fort William in Bengal, except the Chritagong Hill-tracts (see section 2 and footnote, post, p. 560). But the Act does not affect immovable property in Calcutta or in certain Provincial Maincipalities (see section 2, post, p. 530), and the Governor in Council sempowered to exempt any district or part of a district, or any estate or tenure, from the operation of the Act or from the operation of the Act as relates to the road ceas or the public works ceas (see ibid).

The application of the Act is harred in the Chittagong Hill-tracts Begulation, 1900 (1 of 1909), s. 4 (2), printed in Vol. I of this Code.

LOCAL REPBALS AND AMENIMENTS.—Section 2 of the Bengal Local Belf-Government Act of 1885 (Ben. Act 3 of 1885, printed, post, p. 308), repeals and amends a number of sections (indicated post) of the present Act, in all districts in Bengal (as now constituted) except the Darjeeling district. Annotated Preprint.—For an annotated reprint of this Act, with rules and orders district.

Annotated Bergals Board of Revenue under, or with reference to, the Act, see the Bengal Geas Manual, 1911.

AMAIGAMATION OF CERSES.—The rate imposed under the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895), is collected with the Road Cess imposed under the present Act—see ss. 21 and 22 of the Act of 1895, in Vol. 111 of this Code.

This includes the present Presidency of Fort William in Bengal and other territory.

(Preliminary.—Secs. 2, 3.)

2. This Act shall take effect at once in every district¹ and part of a district in which Bengal Act 10 of 1871: (an Act to provide for local rating for the construction and maintenance of roads and other means of communication and Bengal Act 2 of 18772 (an Act to provide for the levy of a cess for **Sk4** construction, charges and maintenance of provincial public works) may be in force on the date of the commencement of this Act.

[The Lieutenant-Governor may, by notification, in the Calcutta (fazette, extend its provisions to any other district or part of a district situate in the territories for the time being administered by him; and this Act shall take effect accordingly therein from the date specified in such notification:]

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal, or within the limits of any first or second class municipality under the Bengal Municipal Ben. Act 5 of 1876. Act, 1876.3

Power to exempt listricts from peration of Act.

Repeal of District Road

Public Works Act, 1877.

Cess Act, 1871, and Provincial

Proviso.

The Lieutenant-Governor may, by notification in the Calcutta Gazette, exempt any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

3. The said Bengal Act 10 of 1871 and the said Bengal Act 2 of 1877 are hereby repealed; but this repeal shall not affect the past operation of such Acts or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder;

and all rules, orders, appointments and valuations in force at the commencement of this Act which were made under the said Acts shall, so far as they are consistent with this Λ ct, be deemed to have been made under this Act;

and all cesses which were imposed under the said Acts shall be deemed to have been imposed under this Act, and every

¹ These comprise all districts (except the Chittagong Hill-tracts) which now form the Presidency of Fort William in Bengal, namely:—

BURDWAN DIVISION-Bankura, Birbhum, Burdwan, Hooghly (including Howrah) and Midnapur. CHITTAGONG DIVISION— Chittagong, Noakhali and Tippera.

Bakerganj, Dacca, Faridpur and Mymen-singh

PRESIDENCY DIVISION. Jessore, Khulna (this district was, in 1880, part of the Jessore, and the 24 Parganas Districts), Murshidabad, Nadia and the 21-Parganas.

RAJSHAHI DIVISION—

Bogra, Darjeeling, Dinajpur, Jalpaiguri,
Malda, Pabna, Rajshahi and Rangpur.

Ben. Acts 10 of 1871 and 2 of 1877 have been repealed by s. 3 of the present Act.
Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 5 of 1884), and this reference should now be taken to be made to that Act—see s. 2 thereof, post,

And to the governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Liws Act, 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code.

5 For a list of notifications issued under this paragraph of a for Bengal as constituted on the Blatt March, 1912, see the Bengal Local Statutory Rules as Tourist 1912, Vol. I, Pt. VI.

of 1880.7

(Preliminary.—Sec. 4.)

sum due to the Collector in respect of arrears of cess, of expenses incurred, of fees or costs payable, of notices served or of fines imposed under either of the said Acts shall be deemed to be due on such accounts under this Act;

and all cesses so imposed and every sum so due may be ried as herein provided. levied as herein provided.

4. In this Act, unless there be something repugnant in Interpretation-clause. the subject or context,-

thereof:

"annual value of any land, "Annual

estate or tenure" means the land, ctc.: total revenue or rent which is payable, or, if no revenue or

rent is actually payable,

would, on a reasonable assess-

ment, be payable, during the

year by all the cultivating

raiyats of such land, estate or

tenure, or by other persons in

the actual use and occupation

ue of d," etc.:

1"annual value of any land, estate or tenure" means the total * * 3 rent which is payable, or, if no * * 3 rent is actually -payable, would, on a reasonable assessment, be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof:

⁴ Erplanation.—For the purposes of the foregoing definition, whatever is lawfully payable or deliverable, or would, on a reasonable assessment, be lawfully payable or delicerable, in money or in kind, directly to the Government,-

- (a) by raiguts cultivating land in a Government estate—on account of the use or occupation of the land, or
- (b) by other persons in the actual use and occupation of land in such an estate,

shall be deemed to be "rent":

"Commissioner" means the Commissioner of the Division:

"cultivating raiyat" means a person cultivating land and "Cultivating paying tent therefor not exceeding one hundred rupees per raiset": annum:

Explanation.-When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the grop calculated on an average of the three years next preceeding any valuation or re-valuation under this Act :

"district" means the local area to which a Collector is "District": appointed, and no lands situate beyond the limits of such local

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"Commis-

¹ This definition is in force in this form in Western Bengal.

The differences in the definition as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

2 This definition is in force, in this form in Eastern Bengal.

3 The words "revenue or" were repealed, in Western Bengal, by the Bengal Cens (Amendment) Act, 1910 (Ben. Act 4 of 1910), a. 2 (1), and are omitted.

4 This Explanation applies only by Western Bengal. It was added by the Bengal Cens (Amendment) Act, 1910 (Ben. Act 4 of 1910), a. 2 (2), in Vol. III of this Code.

(Preliminary—Sec. 4.)

area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof:

"Estate":

- 🛂 " estate " means—
 - (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876,2 or Ben. Act 7 of any similar law for the time being in force;

- (2) any land, other than the holding of a cultivating raigat, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same;
- (3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands:

"Holder of an estate or

"holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under

"Holding": "Immovable "holding" means the land held by a cultivating raiyat:

"immovable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings:

" Land":

"land" means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings: "Part," "Chapter" and "section" mean respectively a Part,

" Part." "Chapter" "Schedule":

Chapter and section of this Act: "Schedule" means a schedule to this Act annexed, and every

such schedule shall be read as part of this Act:

"Tenure":

"tenure" includes every interest in land, whether rentpaying or not save and except an estate as above defined, and save and except the interest of a cultivating raiyat:

"The Collector":

"the Collector" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means-

i-when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne;

For power to direct that certain land shall be deemed to be a "tennre" and not an "estate,"
 40 A, post, p. 562.
 Printed αsie, page 345.

of 1880.

(Preliminary—Sec. 4.)

ii-when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne :

"the Collector of the district" includes any person specially or of the district invested with the powers of a Collector for the purposes of this trict": Act, and means the officer in charge of the revenue-administration of a district:

The Settle-ent Officer"

"the Settlement Officer" means the Revenue-officer appointed by the Local Government, under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of-rights, under Chapter X² of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof,

and includes any officer appointed by the Local Government to maintain records-ofrights so prepared or revised.

🔐 District Board" means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885.

B" District Fund" means the fund formed under section 525 of the Bengal Local Self-Government Act of 1885.

"the Committee" means the "The Committee": District Road Committee of any district:

en. Act 3 District und:"

District

en. Act 3

"year" means the cess year as determined by the Lieute- "Year". nant-Governor under section 11.

¹ This definition of "the Settlement Officer" applies only to Western Bengal. It was inserted by the Bengal Coss (Amendment) Act, 1910 (Ben. Act, 4 of 1910), s. 2 (3), in Vol. 111 of this Code.

2 Printed in Vol. 1 of this Code

3 These definitions of "District Board" and "District Fund" were substituted for the definition of "the Committee" by the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885), s. 3, and apply to all areas in Bengal in which the present Act is in force, except the Darjes ling district.

4 Printed next wave "10 Committee" applies only to the Darjes ling district.

This definition of "the Committee applies only to the Parjaming district."
 Prove the Governor in Council of Fort William in Bengal—ree the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

[Ben. Act 9

(Parl I.-Chapter I.-Imposition and Application of the Cesses.—Secs. 5-9.)

Part I.

CHAPTER 1.

IMPOSITION AND APPLICATION OF THE CESSES.

All immovable property to be liable to a road cess and public works cess.

Cesses how to be assessed.

5. From and after the commencement of this Act in any district or part of a district, all immovable property situate therein, except as otherwise in sections 2 and 8 provided, shall be liable to the payment of a road cess and a public works cess.

6. The road cess and the public works cess shall be assessed on the annual value of lands and on the annual net profits from mines, quarries, tramways, railways and other immovable property ascertained respectively as in this Act prescribed;

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the

manner in this Act prescribed:

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half anna on each rupee of such annual value and annual net profits respectively.

Public reveliable for more road cers than has been paid to Collector by persons liable

7. Nothing in this Act contained shall be deemed to require the payment by the Lieutenant-Governor of Bengal,1 from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same.

Government and guaran-teed rail ways not liable to the cesses without consent of Gov-ernor General in Council.

8. No railway or tramway, the property of the Government of India, and no railway or tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in Council, or by the Governor General of India in Council, or by the Lieutenant-Governor of Bengal¹, shall be liable to road cess or public works cess under the provisions of this Act without the previous consent of the Governor General of India in Council.

Application of proceeds of road cess.

19. The proceeds of the road cess in each district shall be paid into the District Road

*9. The proceeds of the road Application of cess in each district shall be proceeds of road cess. paid into the District Road

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D. items 1 and 2, in Vol. I of this Code.
2 Section 9 is in force in this form in all areas in Bengal in which the Act is in force, except the

Darjeeling district.

Section 9 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the words printed in italies.

of 1880.]

(Part I.-Chapter I.-Imposition and Application of the Cesses.—Part 11.—Mode of Assessment.—Chapter 11.— Valuation of Lands.—Secs. 10-12.)

Fund of such district, as hereinafter provided.

Fund of such district, as hereinafter provided, *and, togethér* . with other assets of such Fund, shall be applied to the purposes mentioned in section 1092.

10. The proceeds of the public works cess [and all interest Application of paid thereon shall be paid into the public treasury, and shall public works be applied (1) to the payment of such contributions to the District Road Fund as the Lieutenant-Governor may think proper in consideration of the said cess being assessed and collected jointly with the road cess by establishments paid from the District Road Fund; and (2) to the construction charges and maintenance of the provincial public works, and to the payment of interest on capital which may have been expended, or which may hereafter be expended, on such works, in such manner as the Lieutenant-Governor may direct.

11. The Lieutenant-Governor shall, by an order pub- Power to fix lished in the Calcutta Gazette, fix the date from which the coss year. cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

Part II.-Mode of Assessment.

CHAPTER II.

VALUATION OF LANDS.

oard of Revenue may order valuation.

*12. Upon the commencement of this Act in any ment of this Act in any ment of this Act in any Governor may district or part of a district, district or part of a district, order valuation,

The differences in section 12 as in force in Western Bengal and in Bastern Bengal, respectively lie in the words printed in Italics.

7 Section 12 is in force in this form in Eastern Bengal.

¹ The words "and, together with other assets of such Fund, shall be applied to the purposes mentioned in section 109" were repealed by the Bengal Local Melf-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, in all areas in which the present Act is in force, except the Darjeeling District.

² The figures "109", in s. 9, were substituted for the figures "111" by the Bengal Cess (Amendment No 2) Act, 1881 (Ben. Act 2 of 1881) s. 1, post p. 619.

³ These words in square brackets in s. 10 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 2, post, p. 619.

⁴ Now the Governor in Council of Forr William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and 8tch. D, items 1 and 2, in Vol. 1 of this Code.

⁵ For a list of orders made under section 11 for Bengal as constituted on the 31st March. 4912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

⁶ Section 12 is in force in this form in Western Bengal.

The differences in section 12 as in force in Western Bengal and in Bastern Bengal, respectively.

(Part II.—Chapter II.—Valuation of Lands.—Sec. 13.).

the Board of Revenue may order that a valuation shall be made of such district or part of a district;

and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section s or in Chapter IIA, at any time within twelve months previous to the expiration of such term.

the Board of Revenue may, if 'they think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the Bourd of Revenue may direct.

the Lieutenant-Governor may order that a valuation shall be made of such district or part of a district;

and from time to time, after and re-valuathe expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section, or at any time within twelve months previous to the

expiration of such term, ² Lieutenant-Governor

may, if he think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the 2 Lieutenant-Governor direct.

After five years holder of estate or tenure may apply to Collector for re-valuation.

and re-valua-

Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation [or re-valuation] under this Act or Bengal Act 10 of 1871 6, the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly:

¹ These words "Board of Revenue," in s. 12, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (1), in Vol. III of this Code.

a. 5 (1), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue—ses now the Bengal Board of Revenue—ses now the Bengal Board of Revenue Act, 1916 (Ben. Act 2 of 1918).

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 2, in Vol. I of this Code.

The words "or in Chapter IIA" in s. 12, were insterted, for Western Bengal, by the Bengal Cesa (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 3, in Vol. III of this Code.

This word "they" in s. 12, was substituted for the word "the", for Western Bengal, by the Bengal Cesa (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5(2), in Vol. III of this Code.

These words "or re-raluation", in a. 18, were inserted by the Bengal Cesa (Amendment No. 2)

Act, 1881 (Ben. Act 2 of 1881), s. 8, port, p. 519.

Ben; Act 10 of 1871 has been repealed by this Act—see s. 8, cate, p. 580.

of 1880.1

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands .- Sec. 14.)

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

114. Whenever the Board Proclamation to make return of lands to be

of Revenue has ordered under section 12 that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure, in the

form set forth. The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicu-

form in Schedule A contained,

giving the particulars in such

214. Whenever the Lieu- Proclamation tenant-Governor has ordered to make that a valuation or re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure in the form in Schedule A contained, giving the particulars in such form set forth.

The Collector of the district Publication of shall cause such proclamation to be published by affixing a -copy thereof in some conspicu-

lands to be

Publication of proclamation.

issued.

¹ Section 14 is in force in this form in Western Bengal.

The differences in s. 14 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

Section 14 is in force in this form in Eastern Bengal.

These words "Board of Revenue," in s. 11, were substituted for the words "Lieutenant Governor," for Western Bengal, by the Bengal Coss (Amendment) Act, 1910 (Ben. Act of 1910), s. 5 (7), in Vol. III of this Code.

A to the research constitution and powers of the Bengal of Revenue, we now the Bengal Band.

a. o (1), in Vol. 110 or this Cook.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

4 Those words "under section 12," in s. 14, were inserted, for Western Bengal, by, the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 4, in Vol. III of this Code.

4 New the Geovernor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1918), s. 8, and Boh. D, item 2, in Vol. 1 of this Code.

(Part II.-Mode of Assessment.-Chapter II.-Valuation of Lands.—Secs. 15, 16.)

ous place in the office of such Collector, in every Civil Court. in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the 'Board of Revenue may from time to time direct.

Re-valuation may be of particular estates or

¹15. At any time at which 1 Board of Revenue might order a re-valuation of a district or part of a district to be made as provided by section 12, they may, if they think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Notice to lodge returns.

316. Whenever any clamation has been published, as mentioned in section 14, in any district, and whenever the 1 Board of Revenue has made an order, under the last preceding section, that a revaluation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office ous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the Lieutenant-Governor may from time to time direct.

15. At any time at which Re-valuation the Lieutenant-Govern or may be of particular might order a re-valuation of a estates or tenures only. district or part of a district to be made as provided by section 12, he may, if he think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

16. Whenever any pro- Notice to clamation has been published, lodge returns as mentioned in section 14, in any district, and whenever the ^a Lieutenant-Governor made an order, under the last preceding section, that a revaluation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office

¹ These words "Board of Revenue," in ss. 14, 15 and 16, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (I), in Vol. III of this Code.

Act 4 of 1910), s. 6 (1), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Lawa Act, 1912 (7 of 1912), s. 8, and Boh. D, Item 2, in Vol. I of this Code.

Sections 16 and 16 are in force in this form in Western Bengal.

The differences in as. 15 and 16 as in force in Western Bengal and in Rastern Bengal, respectively, lie in the words printed in italics.

Sections 18 and 16 are in force in this form in Eastern Bengal.

This word "they," & s. 15, was substituted for the word "he,' for Western Bengal, by the Bengal Coss (Amendagent) Act, 1910 (Ben. Act 4 of 1910), s. 5 (2), in Vol. III of this Code.

of 1880.]

(Part II.-Mode of Assessment.-Chapter II.-Valuation of Lands.—Sec. 17.)

mentioned in section 14;

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act 10 of 1871,1 either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or revaluation, or of which the existence may in any other way have come to his knowledge.

17. The notice mentioned in the last preceding section Form of shall be in the Form No. I in Schedule B contained, or in the time for Form No. II in the said Schedule contained, as the case may lodging be, and shall require every holder of the estate or tenure returns severally to lodge the return within the time specified below, namely:-

of the Collector the return of the Collector the return mentioned in section 14:

> and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act 10 of 1871,1 either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or revaluation, or of which the existence may in any other way have come to his knowledge.

In the case of Revenue-paying Estates and Rent-paying Tenures

If the return relate to an estate or tenure which is liable to the payment of annual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure

If the return relate to any other estate or tenure, or to any share or interest therein.

Within six weeks of the service of the notice

Within three months of the service of

In the case of Revenue-free Estates and Rent-free Tenures.

If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure.

If the return relate to any other estate or tenure, or to any share or interest

Within six weeks of the service of the notice.

Within three months of the service of the notice.

The Collector may in his discretion extend the time allowed for lodging any such return.

¹ Ben. Act 10 of 1871 has been repealed by this Act—see s. S, uni

Ben. Act 9

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 18-20.)

Penalty for omitting to make return. 18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter prov.ded.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall other-

wise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy, for such default shall be made otherwise than by authority of the Commissioner.

No rent to be recovered till return is made. 19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and

such Court shall take judicial notice of the same.

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

No rent to be recovered for land, etc., not mentioned in return

- 20. Every holder of an estate or tenure in respect of which a return has been made as required by this Chapter shall be precluded from suing for or recovering—
 - (a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding

of 1000.]

(Part-II.-Mode of Assessment.-Chapter 11.-Valuation of Lands.—Secs. 21, 22.)

> or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return:

(b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return, unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return:

Provided that the Collector may at his discretion, at any Proviso. time within six months from the presentation of any return made under this Part, receive a petition correcting any such

return; and on the acceptance of such petition may make such

correction in the valuation of the estate or tenure as may be required: and, as soon as the person in respect of whose estate or tenure the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and

not otherwise, such person may recover such rent as may be

due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

21. If no return shall have been lodged in respect of any If returns not lands for which notice under section 16 has been issued, the furnished, Collector to Collector may, after the expiration of the time allowed by make valuethe notice, or of such extended time as is mentioned in tion. section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

¹22. If the Collector is

satisfied, for reasons to be

222. Whenever the maker After of any return under this Act conviction of making false recorded by him in writing, has been convicted on a prosethat any return made under cution under section 94 of make this Act is untrue or incorrect, making a false return relating valuation.

aluation by ollector bere return

¹ Section 22 is in force in this form in Western Bengal, having been substituted by the Bengal Cless (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (in Vol. III of fine Code), for the section printed opposite to it.

4 Section 22 is in force in this form in Eastern Bengal.

(Part II.-Mode of Assessment.--Chapter II.-Valuation of Lands.—Secs. 23, 24.)

he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made:

Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

¹23. The expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made:

Provided that, where such return relates to lands for which no rent is payable by cultivating raiyats to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

to any lands, the Collector may, by such ways and means as to him shall seem expedient. ascertain and fix the annual value of such lands;

and the expense of such valuation may be recovered from the maker of such return as provided in sections 98 and 99.

23. Whenever the Collect- In certain or may deem that any return cases of incorrect lodged relating to lands for returns, Collector to which no rent is payable by make cultivating raiyats to the valuation person making such return is prosecution untrue or incorrect, he may, be mat, or not. whether any prosecution as mentioned in section 94 shall have been instituted or not, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands;

and, in case the annual value of such lands so determined by him shall exceed by one-fifth the value stated in such return, the expense of such valuation may be recovered from the person by whom such return was lodged, as provided in sections 98 and 99; and in all other cases the said expense shall be borne by the District Road Fund.

Person as cultivating raiget may be served with

Recovery of expense of such

valuation.

24. The Collector may, whenever he may think fit, cause a notice in the Form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat; and thereupon such

¹ Section 23 is 15 force in this form in Western Bengal, having been substituted by the Bengal Cess (Amendment) Act, 1910 (Ben. 2004 2 of 1910), s. 6 (in Vol. III of this Code), for the section printed opposite to it.

5 Section 23 is in force in this form in Mastern Bengal.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 25-28.)

person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to

such person.

such person.

25. If no return is made by any person on whom a notice If no return has been served as provided in the last preceding section, the may ascertain annual value and means as to him shall annual value Collector may proceed, by such ways and means as to him shall ann seem expedient, to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

26. If it shall appear to the Collector that any person on Collector may whom a notice has been served under section 24 has been classification wrongly classed in the return as a cultivating raiyat, the in returns. Collector may direct that the entry be corrected and that such person be classed as a tenure-holder;

and thereupon such person shall be deemed to be a tenureholder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

27. Whenever the revenue annually payable in respect Summary of any estate, or the rent annually payable in respect of any raluation or amail revenue-tenure, does not exceed the sum of one hundred rupees, the paying estates and tenures. Collector may, without issuing any notice for such estate or tenure,-

- (a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; or,
- (b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

When the area of any revenue-free estates or rent-summary free tenure, the gross rental of which does not exceed, or is not small revenueestimated by the Collector to exceed, the sum of one hundred small revenue rupees, has been ascertained, the Collector may, without issuing and rent-free tenures of any notice for such estate or tenure, determine the annual value which the of such estate or tenure to be at such rate per agree as to him ascertained. may seem fit.

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sec. 29.)

Computation of annual value of land comprised in a subordinate tenure in a summarily valued extate or tenure.

- 29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules:—
 - (1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.
 - Example.—An estate paying a revenue of Rs 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is let in pathi for a rent of Rs. 120. The annual value of the pathi tenure will be Rs. 200.
 - (2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—
 - (a) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained;
 - (b) next, the ratio which such difference bears to such revenue or rent shall be ascertained;
 - (c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;
 - (d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and
 - the result shall be taken to be the annual value of the subordinate tenure.
 - Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. Λ part only of the estate is let in path for a rent of Rs. 37-8
 - The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40 This difference bears a ratio of two-thirds to this revenue (Rs. 60).
 - The amount which hears the same ratio (two thirds) to the rent payable in respect of the patni (Rs. 37-8) is Rs. 25;
 - add half of Rs. 25 to the rent payable in respect of the paint tenure, and the result (Rs. 37.8 + Rs 12.8 =) Rs. 50 will be the annual value of the paint tenure.
 - Example B.—Within the pates tenure paying a rent of Rs. 37-8, as in Example A, is a darpates tenure paying a rent of Rs. 27.
 - The difference between the annual value of the pathi tenure ascertained above (Rs. 50) and the rent payable in respect of the pathi (Rs. 37-8) is Rs. 12-8, which bears a ratio of one-third to the said rent.

¹ The word "ratio", in Example B, was substituted for the word "rate" by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908 (1 of 1908)—ride Act 10 of 1914, Sch. II.

of 1880.

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 30-34.)

The amount which bears the same ratio (one-third) to the rent payable in respect of the darpatni (Rs. 27) is Rs. 9;

add half of Rs. 9 to the rent payable in respect of the darpatai, and the result (Rs. 27 + Rs. 4-8 =) Rs. 31 8 will be the annual value of the d rpatni tenure,

When the land contained in any estate or tenure has When such been summarily valued according to a rate per acre, under valued according clause (b) of section 27, or under section 28, the annual value of ing to rate per the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

31. The holder of any estate or tenure which has been Holder of summarily valued under section 27 or 28, may, within one walned eather month from the posting of the valuation-roll in respect thereof or tenure may under section 35 lodge a return in the form in Schedule A lodge return. under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

32. Instead of proceeding to value any estate or tenure Collector may summarily under the provisions of section 27 or 28, the estate or tenure tenure transfer tenure tenure transfer tenure tenure tenure transfer tenure tenure transfer tenure tenur Collector may, if he think fit, cause a notice to be served in ure by regular respect of any such estate or tenure in the Form No. 1 in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one. hundred rupees.

Lands used for Tea, Coffee or Cinchona.

33. In the case of lands acquired under any rule issued by, Return of or under the authority of, the Government for the sale, lease, etc. grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate.

The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

34. Whenever any valuation or revaluation is made under Valuation this Part, the Collector shall cause to be prepared from the prepared,

Ben. Act 9

(Part II.-Mode of Assessment.-Chapter II.-Valuation of Lands.—Secs. 35, 36.)

returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll. as relates to the lands included within his estate, tenure or holding.

Publication of rolls

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the mal-cutcherry of the estate to which such roll refers, and shall cause extracts of such portions of any such roll as refer to any tenure to be posted up at the mal-cutcherry of such tenure:

Provided that, if no such mal-cutcherry be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

To be attested by two per-SOUR.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or chaukidars, or other officers of Government, to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

Valuation and re-valuation to be in force for five years.

¹**36.** Except as otherwise in this Part expressly provided, every valuation and revaluation made under this Chapter shall remain in force for the term of five years from the date fixed by the *Board of Revenue under section 12 as the date from which the cess leviable in pursuance thereof

236. Except as otherwise Valuation and in this Part expressly provid- re-valuation to be in force ed, every valuation and re- for five years valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the 'Lieutenant-Governor under section 12 as the date from which the cess leviable in pursuance thereof

¹ Section 36 is in force in this form in Western Bengal.
The difference in section 86 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in Italies.

Section 36 is in force in this form in Eastern Bengal.
These words "Board of Revenue," in s. 36, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (I), in Vol. III of this Code.

As to the present constitution and powers of the Board of Bevenue, see now the Bengal Board of Revenue Act, 1912 (Pen. Act 2 of 1918).

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, item 2, in Vol. I of this Code.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37, 37A.)

shall take effect, and thereafter, until another revaluation and assessment in substitution therefor shall have been ordered and completed.

¹37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the *Commissioner from making at any time any reduction which he may think fit in the valuation of any estate or tenure;

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation

or assessment was made.

shall take effect, and thereafter, until another revaluation and assessment in substitution therefor shall have been ordered and completed.

237. Nothing in section 36 Collector may contained shall be held to reduce valuation. debar the Collector, with the sanction of the 'Board of Revenue, from making at any time any reduction which he may think fit in the valuation of any estate or tenure;

or from making a valuation and may value of and assessing and levying omitted and cess under the rules laid down newly-formed in this Part upon any estate or tenures. tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

CHAPTER IIA.

PROCEDURE FOR VALUATION OF LANDS IN RES-PECT OF WHICH A RECORD-OF-RIGHTS IS BEING PREPARED, REVISED OR MAINTAINED.

Valuation during pre-paration, revi-sion or maintenance of rights.

Collector may educe

and may value

ne wly-formed estates and

mitted and

aluation,

37A. (1) Notwithstanding anything contained in Chapter II, the Board of Revenue may, if they think fit, order that a valuation shall be made by the Settlement Officer of any

1912, Vol. I, Pt. VI.

¹ Section 37 is in force in this form in Western Bengal.

The difference in section 37 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

Section 37 is in force in this form in Eastern Bengal.

This word "Commissioner," in s. 87, was substituted for the words "Board of Revenue," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 7, in Vol. III

of this Code.

4 As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1918.)

5 Chapter II A (sections 37 A to 37-1) was inserted, for Western Bengal, by the Bengal Cens (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 8, in Vol. III of this Code. No similar Chapter has been enacted for Eastern Bengal.

6 For a list of orders made ux fer section 37A, see the Bengal Local Statutory Rules and Orders 1912. Vol. I. Pe VI

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37B, 37C.)

local area, estate or tenure, or part thereof. in respect of which-

- (a) a record-of-rights is being prepared or revised under Chapter X1 of the Bengal Tenancy Act, 1885, or any other law for the time being in force,
- (b) a record-of-rights so prepared or revised is being maintained by an officer appointed by the Local Government in that behalf.

(2) Every valuation made under sub-section (1) shall take effect from the beginning of such year as the Board of Revenue 2 may direct:

Provided that no such valuation shall take effect before the expiration of the period of five years prescribed by section 36 for the continuance of the last preceding valuation (if any).

- 37B. (1) When an order has been issued by the Board of Revenue 2 under section 37A, the Settlement Officer shall at the time of preparing or revising the record-of-rights for the local area, estate or tenure, or part thereof to which such order relates, prepare a valuation-roll showing the annual value of all lands comprised within such local area, estate or tenure.
- (2) Where the lands of a local area, estate or tenure, in respect of which a valuation-roll is to be prepared under sub-section (1), are situate in more than one district, the Settlement Officer may prepare the valuation-roll in respect of the lands lying in one district; and valuation may be effected and brought into force for the portion of the local area, estate or tenure situate in such district, in accordance with the procedure hereinafter prescribed.

37C. The Settlement Officer shall, without calling for returns from the holders of estates Settlement or tenures, ascertain and fix the annual value,-

(a) in the case of land the rent of which is payable in cash-on the basis of the rent which has been entered as payable therefor in the record-ofrights, and

1 Printed in Vol. I of this Code. * As to the passent constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

Preparation of valuation roll by Settle-

Method of valuation by 8 of 1885.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-ofrights is being prepared, revised or maintained.—Secs. 37D-37F.)

- (b) in all other cases—by such ways and means as the Board of Revenue may prescribe in that behalf.
- 37D. Notwithstanding anything contained in section 37C, the Settlement Officer may, for the purpose of ascertaining or fixing the annual value of any land held without payment of rent. other than land mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district exercise any of the powers and functions which are exerciseable by a Collector under Chapter IV.

37E. When a draft valuation-roll has been prepared, the Settlement Officer-

- (a) shall publish the draft together with, and in the manner and for the period prescribed by the law for the time being in force for the publication of, draft records-of-rights, and
- (b) shall receive and consider objections to any entries in the valuation-roll at the time and in the manner prescribed by such law for receiving and considering objections to entries in draft records-of-rights.
- 37F. When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, the Settlement Officer shall finally frame the valuation roll and shall cause it to be finally published, and thereafter shall refuse to receive and consider any objections which may be made to any entry therein:

Provided that, where any material alteration has been made in the record-of-rights in accordance with any decision under section 104H, section 105, section 105A or section 106 of the Bengal Tenancy Act, 1885, or under any other law for the time being in force, a corresponding correction shall be made in the valuation-roll

after its final publication.

regard to valuation of rent-free lands.

Powers and functions of Settlement

Officer in

Publication of draft valuation-roll and hearing of objections.

publication of aluation-roil

i of 188å.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918.)
 For an order made under section 87C (b), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.
 Printed in Vol. I of this Code.

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37G-37-I.)

Appeals
sgainst
entries in
saluation-roll.

- **37G.** (1) Where the Settlement Officer has ascertained and fixed the annual value of any land in the manner described in clause (a) of section 37C, no appeal shall lie against the entry of such annual value in the valuation-roll; and the entry in the record-of-rights of the amount of rent payable in cash for such land shall, for the purposes of this Act, be final.
- (2) Where the Settlement Officer has ascertained and fixed the annual value of any land by any of the ways and means prescribed under clause (b) of section 37C, or in exercise of powers referred to in section 37D, an appeal shall, if preferred within one month from the final publication of the valuation-roll, lie to such authority as the Local Government may by rule 1 prescribe.

(3) The Commissioner may, on application made to him within one month from the date of the decision of the appellate authority in an appeal under sub-section (2), revise such decision.

Submission of valuation-roll to Collector, and Collector's procedure thereupon.

- **37H.** (1) When the valuation-roll has been finally published, the Settlement Officer shall submit it to the Collector.
- (2) On receipt of such valuation-roll the Collector shall note thereon the total annual value of each estate and of the tenures therein comprised, and the amount of revenue annually payable to the Government on which the deduction specified in section 41 is to be calculated.
- (3) The Collector shall not entertain any objection against the total annual value of any estate or tenure which has been calculated under sub-section (2), except on the ground that an error or omission has been made in calculating the same.

Term of, and Collector's power to reduce, valuation. 37-1. The provisions of section 36 with regard to the term of a valuation, and of section 37, with regard to the power of the Collector to reduce a valuation, shall apply to a valuation made under this Chapter.

¹ For rules made under section \$7G (?), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1880.]

(Part II.-Mode of Assessment.-Chapter III.-Rating and Levy of the Cesses.—Secs. 38-40.)

CHAPTER III.

RATING AND LEVY OF THE CESSES.

Rate at which oad cess shall se levied how be fixed.

¹38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board.

238. The road cess for Rate at which each year shall be assessed and road cons shall be levied how levied in each district as pro- to be fixed. vided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as may be determined for such year by the Committee of such district with the approval of the, Commissioner under section with the 150 or 151, or approval of the Lieutenant-Governor under section 153, as the case may be, or at such rate as the Lieutenant-Governor 4 order under may section 153.

late at which mblic works as shall be evied how o be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as the Lieutenant-Governor may determine for such year.

Votice howing mount of ess payable o be served m zamindars

440. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the Calcutta Gazette

* , the Collector of the district

740. When the rate of road Notice cess and public works cess to showing amount of be levied in any district shall cess payable have been determined for any on zamindars. year and published in the Calcutta Gazette as provided in section 155, the Collector of the district

1 This section 38 was substituted for the original section 38 by the Bengal Local Self-Government (Amendment) Act of 1885 (Ben. Act 8 of 1885), s. 2, and applies to all areas in Bengal in which the present Act is in force, except the Darjeeling district.

2 This section 38 applies only to the Darjeeling district.

3 As to fixing the rate of road-coss, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 46, post, p 924.

4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriasa and Assam La ws Act, 1912 (7 of 1912), s. 3, and 8ch. D, item 1 and 1, in Vol. I of this Code.

5 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriasa and Assam La ws Act, 1912 (7 of 1912), s. 3, and 8ch. D, item 1 and 2, in Vol. 1 of this Code.

6 Section 40 is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling District.

8 Section 40 is in force in this form in the Darjeeling district.

Section 40 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the

words printed in italics.

The words "as provided in section 155" were repealed by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s 2, in all areas in which the present Act is in force, except the Darjeeling district.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sec. 40A.)

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every policestation, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section. shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every policestation, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

Recovery of cess from tenures in Government estates. "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue 2 may direct that any land (other than the holding of a cultivating raiyat) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

Section 40A was inserted by the Bengal Cess (Amendment No. 3) Act, 1881 (Ben. Act 2 of 1881), 4, post, p. 619.
 As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 3 of 1918.)

Mode of

(Part II.—Mode of Assessment.—Chapter 111.—Rating and Levy of the Cesses.—Sec. 41.)

41. Except as otherwise in this Act provided,—

(1) every holder of an estate shall yearly pay to the Collector or the entire amount of the road cess and public works cess calculated on the approximately property to the collection of the collecti works cess calculated on the annual value of the by holder of lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof;

(2) every holder of a tenure shall yearly pay to the holder by holder of of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or. rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure;

(3) every cultivating raigat shall pay to the person to by cultivating raigat; whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him,

> by holders of lands.

¹ Notwithstanding anything hereinbefore in this section contained, all persons to whom chaukidari chakran lands have been transferred under Part II of the Village Chaukidari Act, 18702, or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in

en. Act of 1870.

This paragraph was added to s. 41, for Western Bengal, by the Bengal Cess (Amendment)
 Δot, 1910 (Ben. Act 4 of 1910), s. 9, in Vol. III of this Code.
 Printed αste, page 175.

(Part II.-Mode of Assessment.-Chapter III.-Rating and Levy of the Cesses.—Secs. 42, 43.)

this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands.

Time of payment by holder of an estate;

42. (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed 1 [under the provisions of section 3 of Act 11 of 18592, or of any similar Act at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum.

(2) Every holder of a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order

of the Lieutenant-Governor 8.

by tenure-holder and raiyat.

partition.

(3) Every holder of a rent-paying tenure and every cultivating raiyat shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or raiyat:

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or raiyat shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor 3.

Distribution of valuation in case of

43. In case of partition of an estate being effected under Regulation 19 of 1814, or Bengal Act 8 of 1876, or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately '[to the land-revenue] under the order of the Collector over the newly-formed estates whereupon the newly-formed estates shall, for the purposes of this Act,

¹ These words in square brackets in s. 42 (1) were substituted for the words "for the ment of the instalments" by the Bengal Cess (Amendment No. 2) Act, 1861 (Ben. Act 2 of 1881), ment of th

payment of the instalments "by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), a. 6, post, p. 619.

* The Bengal Land Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

* Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and A saam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items I and 2; in Vol. I of this Code.

* Rog. 19 of 1814 was repealed by the Estates Partition Act, 1876 (Ben. Act 8 of 1876).

* Ben. Act 8 of 1876 has been repealed and re-enacted by the Satates Partition Act, 1887 (Ben. Act 8 of 1877), printed in Vol. III of this Code.

* These words in equare brackets in s. 48 were inserted by the Bengal Cess (Amendment No. 2)

* Act, 1881 (Ben. Act 2 of 1881), s. 6, post, p. 619.

CESS ACT, 1880.

(Part II.-Mode of Assessment.-Chapter III.-Rating and Levy of the Cesses .- Sec. 44.)

take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates.

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respect-

ively in respect of land-revenue.

The procedure prescribed by sections 34 and 35 shall be Procedure to followed whenever a redistribution of the valuation is made in when there is consequence of a partition as mentioned in '[this section].

- 44. (1) When a recorded sharer of a joint revenue-paying Effect of open estate has opened a separate account under Act 11 of 18592, or ing separate account under under section 70 of Bengal Act 7 of 1876, or any similar law Act 11 at 1880 for the time being in force for the regulation of the opening Act 7 of 1878. and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act 11 of 1859 and Bengal Act 7 of 1876 in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.
- (2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specifled, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act 11 of 1859 subject, however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of

this Act from the holders of such share.

a partition.

These words in square brackets in s. 48 were substituted for the words "the last preceding section" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 6, post, p. 619.

The Bengal Land Revenue Sales Act, 1859. It is printed ones, p. 846.

The Land Registration Act, 1876. It is printed ones, p. 846.

(Part II.-Mode of Assessment .- Chapter III .- Rating and Levy of the Cesses .-- Sec. 44.)

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act 11 of 1859 or section 70 of Bengal Act 7 of 1876,4 for the opening of a separate account of the landrevenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public

works cess payable by him. 2(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

^{*}As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Bevenue Act, 1918 (Ben Act 2 of 1918).

* These sub-sections (4s) and (4b) were inserted, for Western Bengal, by the Bengal Cess (Amandment) Act, 1916 (Ben, Act 4 of 1910). a. 10, in Yol. III of this Code.

* The Bengal Land Revenue Sales Act, 1859. It is printed in Yol. I of this Code.

* The Land Registration Act, 1976. It is printed arms, p. 845.

(Parl II.-Mode of Assessment.-Chapter III.-Rating wine Levy of the Cesses.—Secs. 45, 46.)

¹(5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

45. If any instalment of road cess or public works cess Penalty for or part thereof payable to the Collector shall not be paid within fifteen days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within three years after it became due, with interest at the rate of twelve '[and a half] per centum per annum calculated from the date on which such instalment became due, and with all costs of recovering the same.

46. (1) In any district to which the Lieutenant-Governor? may specially order that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid keep separate by any holder of a revenue-free estate who is recorded in account of Part I of the Collector's general register of revenue-free lands by registered as proprietor or manager of any specified share or interest in holders of revenue-free lands by registered any revenue-free lands by registered

any revenue-free property.

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; * [and the Collector, if he becomes aware that any separate account opened under subsection (1) does not represent existing facts, may, a ter service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within

Lieutenant-Collector may

6(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; and the Board of Revenue may at any time order that any se**pa**rate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account.

¹ Sub-section (5) was added to s. 44 by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben

¹ Sub-section (5) was added to s. 44 by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 7, post, p. 619.
2 These words in square brackets in s. 45 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 8, post, p. 619.
3 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.
4 For orders made under s. 46 (1) for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.
5 Sub-section (2) of section 46 is in force in this form in Western Bengal.
The differences in sub-section (2) of s. 46 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.
6 Sub-section (2) of section 46 is in force in this form in Bastern Bengal and in Eastern Bengal, 7 As to the present constitution and powers of the Board of Bevenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

These words in square brackets in s. 46 (2), were substituted for the words "and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account," for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Sen. Act 4 of 1910), s. 11, in Vol. III of this Code.

(Part II.-Mode of Assessment.-Chapter III.-Rating and Levy of the Cesses.—Secs. 47-49.)

six weeks of such service, close the account.

(3) As long as any separate account shall remain open as provided in the '[preceding clause], and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof? 47. Every holder of an estate or tenure to whom any sum

Recovery by holders of estates or

may be payable under the provisions of this Act may recover the same with interest at the rate of twelve and half per centum per annum in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery from co-share holders.

hareholders

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

49. Whenever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector,

or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any ther register kept up by the Collector of lands paying revenue r rent to the Collector direct,

shall have paid the road cess or public works cess payable in espect of such estate, or any part thereof in excess of the mount proportionate to his own interest in such estate.

he may, within 'six weeks I such payment being made, of such payment being made, nove the Collector to make a move the Collector to make a

he may, within fifteen days

¹These words in square brackets in s. 46 (3) were substituted for the words "preceding setion" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 9, post, p. 619.

§ As to the effect of opening a separate account under this section, see also the Bengal Embanksent Act, 1882 (Ben. Act 2 of 1882), s. 17, post, p. 650.

§ This clause of section 49 is in force in this form in Western Bengal.

The only difference in the clause as in force in Western Bengal and in Eastern Bengal,

spectively, lies in the words printed in italice.

§ These words "six wests" were substituted for the words "fifteen days," for Western Bengal,

y the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 13; in Vol. III of this Code.

§ This clause of section © is in force in this form in Eastern Bengal.

of 1880.]

(Part II.-Mode of Assessment.-Chapter 1V.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof .- Sec. 50.)

certificate, as provided by any law1 for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

certificate as provided by any law for the time being in force for the recovery of public demands, specifying amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand1; and the same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate:

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate; and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made, and at his cost, and on his responsibility, and not otherwise:

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

CHAPTER IV.

VALUATION AND ASSESSMENT OF LANDS HELD RENT-FREE, AND PAYMENT AND RECOVERY OF CESS IN RESPECT THEREOF.

50. All lands held without payment of rent other than Bent-free lands in what lands mentioned in section 33, and other than estates entered enurse to be on the general register of revenue-free lands of the district, included for shall, for the purposes of this Act, be deemed to form a part of the purposes any tenure within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate

¹ See now the Bengal Public Demands Recovery Act, 1915 (Ben. Act 8 of 1918), in Vol. III of this

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 51-52A.)

within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint.

Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands. 51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbour-hood for the inspection of all concerned,

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of, which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

Certificate of publication of notification 52.

notice has been duly published under section 52, the Collector shall sign a certificate to that

⁴Section 5²A was inserted, for Western Bangal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 18, in Yol. III of this Code.

. of 1880,]

7

(Part II.-Mode of Assessment.-Chapter IV.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 53, 54.)

effect, and such certificate shall be conclusive proof that the publication has been duly made.

53. Within a reasonable time not exceeding thirty days Holder of after the ssue of any process for the recovery of any sum due may object from him as cess under this Chapter, the owner, holder or to valuation. occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates:

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rentpaying land.

54. In the following cases, that is to say:—

(1) whenever a new valuation or re-valuation takes effect Notice to be in any district or part of a district;

(2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceding year; and

¹(3) whenever the dates fixed by the ³ Board of Revenue under section 57 for payment of instalments of the cesses by holders of rentfree land are

changed, changed. the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are

³(3) whenever the fixed by the 'Lieutenant-Governor under section 57 for payment of instalments of the cesses by holders of rentfree · land are

¹This clause (3) is in force in this form in Western Bengal.

The difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively,

certain cases

The difference in the clause as in force in Westera Bengal and in Eastern Bengal, respectively, lies in the words printed in Italics.

This clause (3) is in force in this form in Eastern Bengal.

These words "Board of Revenue" were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 [7], in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Bengal Act 2 of 1918).

4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, item 2, in Vol. I of this Code.

(Part II.-Mode of Assessment.-Chapter IV.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof .- Sec. 55.)

situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively; and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation-roll:-

- ¹(1) a statement of the quantity, or a description, of tand, as entered in the Collector's valuation-roll:
- 2(1) a specification of the land in respect of which the cesses are payable;
- (2) the name of the owner, holder or occupier of such lands, if known;
- (3) the annual value of such land as entered in the Collector's valuation-roll;
- (4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year;
- (5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates; and
- *(6) the dates fixed by the Board of Revenue under section 57 for the payment of each instalment, together with the amount of each instalment.
- (6) the dates fixed by the ⁶ Lieutenant-Governor under section 57 for the payment of each instalment, together with the amount of each instalment.

Mode of publication.

55. Publication of the notice above-mentioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate;

by depositing another copy thereof to be available for general inspection at any mal-cutcherry of the estate or tenure

[&]quot;This clause (I) is in force in this form in Western Bengal, having been substituted, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), a. 14 (in Vol. III of this Code), for the clause printed opposite to it.

This clause (I) is in force in this form in Western Bengal.

The difference in clause (6) as in force in the form in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

This clause (B) is in force in this form in Eastern Bengal.

The difference in clause (6) as in force in Western Bengal and in Eastern Bengal, the in the words "Board of Revenue" were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (I), in Vol. III of this Code.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 2, in Vol. I of this Code

or 1880.]

(Part 11.-Mode of Assessment:-Chapter IV.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 56-58.)

in which such land is included, or at any other convenient place in the neighbourhood;

and by poclamation as herein next provided.

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited, that it is open to inspection at the mal-cutcherry or other convenient place as above mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

56. After publication of the extracts from the roll as owner of provided in section 52, and in cases in which publication of the land bound to notice mentioned in section 54 is required, after publication of pay cess at such notice, and not otherwise, every owner and holder of any full rate. rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally

Instalments to be fixed by Board of

for the year. ¹ 57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the Board of Revenue.

58. When an instalment of the cesses due on any rent-free If install land is not paid to the holder of the estate or tenure to whom not paid it is due within one month of the date on which such instal-

² 57. The payment of the Instalments cesses for each year by the to be fixed by holder of any land which is Governor. held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the 'Lieutenant-Governor.

¹ Section 57 is in force in this form in Western Bengal.

The only difference in s. 57 as in force in Western Bengal and in Eastern Bengal, respectively, recovered.

Ites in the words printed in italics.

Section 57 is in force in this form in Eastern Bengal as constituted on the Sist March, 1912, see the Bengal Local Stautory Rules and Orders, 1912, Vol. I, Pt. VI.

These words "Board of Rovesse", in s. 57, were substituted for the words "Lieutenant-Governor", for Western Bengal, by the Bengal Cess Amendment Act, 1910 (Ben. Act 4 of \$910) s. 5 (1), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 2, in Vol. I of this Code.

(Part 11.-Mode of Assessment.-Chapter IV.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof .— Secs. 59-62.)

ment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of twelve and a half per centum per annum from the date on which such instalment was payable, and with all costs of suit:

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road

cess and public works cess, and not otherwise.

Holders of estates, etc., may send in supj dement. ary returns lands.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act 10 of 1871, or under this Act) any rent-free land which he was bound to enter in such return, such bolder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years, next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land

included in such supplementary return.

61. The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of

the requirements in sections 52, 53 and 54 contained.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of Bengal Act 10 of 1871, or of this Act before the fulfilment of the requirements of the sections 52, 53 and 54; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of twelve and a half per centum per annum on such amount, and with all costs of suit:

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has

Effect of supplementary

amounts payable by own free land. Section 58 not applicable to such

amounts until sections 52, 58 and 54 are

Sections ap-

plicable to

complied with.

of 1000.]

(Part II.-Mode of Assessment.-Chapter IV.-Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof — Secs. 63-64A.)

to such Collector on account of road cess and public works cess. at any date within the year in which the amount sought to be recovered become payable to such holder of an estate or tenure.

63. As soon as the said requirements shall have been fulfilled Owner of in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

.64. (1) Every holder of an estate or tenure who has includ- Additional ed any rent-free lands in any return made to the Collector in rent-free land respect of his estate or tenure under the provisions of the entered in return under Bengal Act 10 of 1871 and has paid to the Collector any cess Bengal Act 1 bayable under the said Act, or under the Bengal Act 2 of 1877 made. in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

(2) Such additional return shall be deemed to be a supple- Additional mentary return within the meaning of section 59, and from the deeme date of the inclusion of any such lands in such additional supplementary return. return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

264A. All sums due to the holder of any estate or tenure Holders of under the provisions of this Chapter, in respect of any land both to held rent-free, may be recovered by such holder from any recover from owner or holder of such rent-free land, or from any occupier holders of rent-free of the same, by any means and any process by which the lands. amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation:

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been

Ben. Acts 10 of 1871 and 2 of 1877 have been repealed by this Act—see a. 8, oute, p. 580.
Sections 64 A and 64 B were inserted by the Bengal Cess (Amendment. No. 1) Act, 1881 (7 of 1881), and are to be deemed to have been inserted from the date on which Ben. Act 9 of 1880 came into force—see Act 7 of 1881, a. 1, in Yol. I of this Code.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent free, and Payment and Recovery of Cess in respect thereof.—Secs. 64B-66.)

commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

164 B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

Occupier may deduct cess paid from cent. by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted.

Notice to be served on holder of rent-free land requiring him to lodge seturn.

the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51.

Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land;

and on service of such notice the provisions of this Chapter shall no longer apply to such lands; but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate.

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

of 1880.]

(Part H.-Mode of Assessment.-Chapter IV.-Valuation and Assessment of Lunds held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 67-71.)

67. If within one year of the commencement of this Act If no notice no notice has been served as mentioned in section 66 on the bolder bound holder of any rent-free land requiring him to lodge a return in to notify the office of the Collector, and if such land has not been included Collector. in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section. the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon:

Provided that no holder of rent-free land who at any time Liter the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give

such information within the prescribed time.

68. On receipt of such information, whether within the Collector time prescribed or after the expiration thereof, the Collector thereupon may require such cowner or holder to such holder to may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

69. Every order made by a Collector under the last preced-Order to have ing section shall have the same effect and be followed by the effect of same consequences as the issue of a notice by the Collector under section 66.

70. As soon as any rent-free land which had not previous. Liability of the been included in the valuation of any estate or tenure, has pay arrears or payments of the payments been valued by the Collector after the issue of a notice as cosses. provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at twelve and a half per centum per annum on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

71. No owner or holder of rent-free land on whom a notice Such holder is not liable to has been served by the Collector under section 66, or in pay ceases respect of whose land an order has been made by the Collector except to Collector or under section 68. shall be liable to have the land to which his Deputy.

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(Part 11.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 72, 72A.)

such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act;

and, upon such order being made, the provisions of this Chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in

respect of such land.

CHAPTER V.

VALUATION, ASSESSMENT AND LEVY OF CESSES ON MINES, RAILWAYS AND OTHER IMMOVABLE PROPERTY.

Notice to return profits.

72. On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immovable property not included within the provisions of Chapter II, and not being one of the tramways or railways mentioned in section 8; such notice shall be in the form in Schedule E contained, and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return of the net annual profits of such property, calculated on the average of the annual net profits thereof for the last three years for which accounts have been made up.

Such Collector may in his discretion extend the time allow-

ed for lodging such return.

Penalty for omitting to lodge a return. 172A. (1) Any owner, chief agent, manager or occupier who, without sufficient cause being shown to the satisfaction of the Collector, refuses or omits to lodge the required return in the office of the Collector within two months from the date of the service upon him of a notice under section 72, or within any extended time which may have been allowed by the Collector for lodging such return, shall be liable to a fine which may extend to fifty rupees for every day after expiration of such time or extended time

¹ Section 72 A was inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1810 (Ben. Act 4 of 1910), a. 16, in Vol. III of this Cede.

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Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 73-76.)

until such return is furnished, or until the annual net profits of the property in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

(2) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

73. Whenever any property assessable under this Chapter When lies in two or more districts, the notice to furnish a return property lies in different under section 72 shall be served on the owner, chief agent, districts. manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

74. Whenever any property assessable under this Chapter when prolice partly within and partly outside the territories administing and partly tered by the Lieutenant-Governor of Bengal', the return furnished as required by section 72 shall state the total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories administered by the Lieutenant-Governor of Bengal.

75. If such return be not furnished within the period of Irreturn not two months from the date on which such notice was served, incress, converse, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the annual net profits of such property calculated as aforesaid.

76. If such Collector be unable to ascertain the annual net valuation of profits as aforesaid of any property assessable under this value of pur

¹ This includes the present Presidency of Fort William in Bengal and other territor,

(Part 11.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 77-81.)

Chapter, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six per centum on such value to be the annual net profits thereon.

Cost of valuation from whom to be recovered. 77. The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

Notice of valuation.

78. So soon as such Collector shall have ascertained and determined the annual net profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of the amount of the annual net profits so ascertained and determined by him.

Valuations under this Chapter to be annual. 79. New valuations under this Chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities as are in this Part mentioned and conferred:

Declaration of annual net profits by owner for five years. Provided that, whenever any return made under section 72 shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual net profits set forth in such return may, for the purposes of this Act, be deemed to be the annual net profits for each of the five years then next ensuing;

Effect of acceptance by Collector of declaration. and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired.

Notice of rate of cess and dates of payments. 80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this Chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect.

And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as herein-

before provided for the commencement of the year.

31. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct

Repovery by occupier or owner who has paid insecess. of 1000.]

(Part II.-Mode of Assessment.-Chapter V.—Valuation Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 82, 83.)

the amount of such excess from the next and subsequent instalments of rent payable in respect of such property; and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and

public works cess on every rupee thereof.

182. The total of the cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the ³ District Road Funds of such districts shall be severally entitled thereto, as provided

in the section next following. ¹ 83. Whenever any property assessable under this Chapter lies in two or more districts, Lieutenantthe Governor shall from time to time determine, out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such pro-

2 82. The total of the How distributed when cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the \mathbf{of} such Committees districts shall be severally entitled thereto, as provided in the section next following.

283. Whenever any pro- Determination perty assessable under this of proportion of proportion Chapter lies in two or more when pro-Lieutenant- different the districts, Governor shall from time to districts. time determine, out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such pro-

districts.

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¹ Sections 82 and 83 are in force in this form in all areas in Bengal in which the Act is in force except the Darjeeling District.

The differences in the sections as in force in the Darjeeling district and elsewhere lie in the

The differences in the sections as in force in the Darjeeling district.

**Sections 82 and 88 are in force in this form in the Darjeeling district.

**Bections 82 and 88 are in force in this form in the Darjeeling district.

**These words "District Road Funds" were substituted for the word "Committees," in s. \$2, by the Bengal Local Beif-Government Act of 1886 (Ben. Act 8 of 1885), s. 2, post, p. 908.

**Now the Governor in Council of Fort William in Bengal—se the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., items 1 and 2, in Vol. I of this Code.

**Now the Governor in Council of Fort William in Bengal—ses the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., item 1, in Vol. I of this Code.

(Part 11.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Chapter VI.—Special Prorisions for [Orissa and] Midnapore.—Secs. 84-87.)

perty shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the 'District Road Fund of each district concerned.

perty shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the *Committee* of each district concerned.

Hervice of notices under this Chapter.

- 84. Every notice under this Chapter may be served—
- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid; or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office; or
- (c) by giving it to such owner, chief agent, manager or occupier.

CHAPTER VI.

SPECIAL PROVISIONS FOR [Orissa and] MIDNAPORE.

Collectors in [Orissa and] Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess.

Notice to be given to holder of estate to which such revenue-free estate is annexed. **35.** [In any district of the Province of Orissa and] in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard bights in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates, which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road

Notice to be given to bolder of revenue-free estate.

^{&#}x27; 1 These words "District Road Fund" were substituted for the word "Committee", by the Bengal Local Solf-Gavernment Act of 1885 (Ben. Act 3 of 1885) s. 2, post, p. 908.

of 1880.] .

(Part II .- Mode of Assessment .- Chapter V1 .- Special Pro. visions for [Orissa and] Midnapore.—Chapter VII.— Misc llaneous.—Secs. 88-91.)

cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in

the district generally for each year.

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the Lieutenant-Governor under section 42 for the payment of cess by the holders of revenue-limitalments as Lieutenant. free estates, or in such other instalments and on such other Governor may dates as the Lieutenant-Governor' may direct, or, if the Lieutenant-Governor' shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the Lieutenant-Governor may appoint.

In default of payment as hereby required, the provisions of

section 47 shall be applicable.

89. Whenever the service of a notice on the holder of a Notices to be served. revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided:

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the

provisions of section 85 annexed.

90. The Collector may at any time, with the sanct on of Collector may the Commissioner, revoke any order passed under section 85, revoke order passed under section 85, and shall give notice of such revocation both to the holder of section 85. the revenue-free estate affected and to the holder of the other state to which such revenue-free estate was annexed.

CHAPTER VII.

MISCELLANEOUS.

91. The Collector, with the sanction of the Board of Collector may Revenue, may appoint such establishments as may be appoint out out and appoint such establishments as may be appoint out and appoint such establishments. required for making valuations and re-valuations under this establish-Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations, re-valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes;

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orise
 Assam Lawa Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.
 As to the present constitution and powers of the Board of Berenue, see now the Board of Berenue Act, 1918 (Ben. Act 2 of 1918).

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.-Secs. 91A-95.)

and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

Payment of commu-... tahsildars.

191A. The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

Powers of Collector in making valuation.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause 1 of section 23 and clause 1 of section 24 of Regulation 7 of 18222, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Commissioner or Board may revise valua-False returns.

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

'94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

'94. Any person who is False returns. bound to make any return under this Part shall be

information to a public servant in respect of the same.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accord-

deemed to be legally bound to give notice and to furnish

ingly.

And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return, by such ways and means as to him shall seem expedient.

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and

^{**}Bection 91A was inverted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 16, in Vol. III of this Code.

* The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

* As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918)

(Section 94 is in force in this form in Western Bengal.

* Section 94 is in force in this form in Eastern Bengal.

The difference in the seculon as in force in Western Bengal and in Eastern Bengal, respectively, these in the words printed in italics.

* The words in italics.

* The words in italics printed opposite were repealed, in Western Bengal, by the Bengal Case (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 17, and are here omitted.

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(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Secs. 96-98.)

shall be admissible in evidence against such person, but shall not be admissible in his favours.

96. Every notice under this Part required to be served, Service of except as otherwise expressly provided, may be served-

- (I) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at the mal-cutcherry of the estate or tenure to which the notice relates, or, if no such mal-cutcherry be found, on some conspicuous place on such estate or tenure; and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

97. The costs of service of every notice and process by this Costs of Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose defaul such notice or process is issued, as the Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund:

Provided that no costs or other expenses whatever shall be No costs to be recovered from any person in respect of the publication or certain issue of any proclamation or notice calling for any return or notices. giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

198. Every amount due, or which may become due, to any Dues under Collector under the provisions of this Act in respect of any the Act to be arrears of cess, of any expenses incurred, of any fee or costs public demand.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

1 Rection 98 is also applicable to the recovery of fines imposed under s. 18 and certain other sums—see ss. 18 and 77, aste, pp. 540 and 570.

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Sec. 99.)

payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law for the time being in force for the realization of public demands; and shall be deemed to be

a public demand under such law:

Provided that the District shall indem-Road Fund nify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

^a Provided that the *District* Road Committee shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

Collector may ecover dues out of rent.

'99. Instead of proceeding as provided by last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the mal-cutcherry of the estate or tenure to which such notification relates, if such cutcherry be found.

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null

and void;

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or raiyat

¹ See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1918), in Vol. III of

¹ See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

8 This provise is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling district.

The difference in the provise as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

8 This provise is in force in this form in the Darjeeling district.

8 These words "District Road Fund" were substituted for the words "District Road Committee" by the Bengal Local Self-tovernment Act of 1885 (Ben. Act 8 of 1885), a. 2, post, p. 908.

8 Section 99 is also applicable to the recovery of fines imposed under a 18—see the latter section, swie, p. 640.

(Part II.—Mode of Assessment.—Chapter V.I.—Miscellaneous.—Secs. 100-102.)

on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked.

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenureholder, under-tenant or raiyat to whom such receipt is given.

In case the Collector shall see fit so to proceed, the claim for Collector's arrears of road cess and public works cess due from any estate priority. or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government revenue.

100. The Lieutenant-Governor may at any time invest Lieutenant-Governor may any person with the powers of a Collector under this Part to invest any be exercised by such person under the control or supervision of person with Collector's the Collector, or independently of such control and supervision, powers. as the Lieutenant-Governor shall direct.

101. The Collector may, with the sanction of the Commis- Collector may sioner, delegate all or any of his powers and functions under powers. this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank:

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

102. Every person who shall deem himself to be aggrieved against by any valuation made by a Collector under the provisions of valuation. section 75 or 76 may, within one month after the issue of the notice mentioned in section 78.

and, subject to anything contained in Chapter IIA, every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of Part. any other section of this Part,

⁴ and every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this

may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

3 This clause of section 102 is in force in this form in Western Bengal.

The difference in the clause as in force in Western Bengal and in Hastern Bengal, respectively, lies in the words printed in italics.

4 These words in italics were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act. 4 of 1916), s. 18, in Vol. III of this Code.

4 This clause of section 103 is in force in this form in Hastern Bengal.

(Part I).-Mode of Assessment.-Chapter VII.-Miscellaneous-Secs. 103-105.)

prefer his objections to the Collector;

and, if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

Orders for levy of fine appealable.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for

such levy shall be discontinued.

Orders appeal-able to Commissioner.

Revision of

1104. Every order passed by the Collector under sections 19, 20, 26, 46 (2), 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

'105. Notwith standing anything hereinbefore con-

- orders by Collector, and control and tained,supervision by Commissioner (a) the Collector may at and Board. any time revise any order made under this Part by himself or by any officer
 - and (b) all proceedings of the Collector or of any officer of a lower grade ander this Part shall be subject

the

to

subordinate to him, unless an appeal against such order has been preferred.

2104. Every order passed Order appealable to Comby the Collector under sections missioner. 19, 20, 26, 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

*105. Notwithstanding Collector's anything hereinbefore contained,

aupervision of and Board.

all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the

general

¹ Section 104 is in force in this form in Western Bengal.

The only difference in the section as in force in Western Bengal and in Eastern Bengal, respectively, lies in the figures printed in Italies.

**Bection 104 is in force in this form in Eastern Bengal.

**These figures "46 (2)", in s. 104, were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 19, in Vol. III of this Code.

**Section 104 is in force in this form in Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 20 (in Vol. III of this Code), for the section whether the concepts to it.

The differences in section 105 as in force in Western Bengal and in Eastern Bengal, respectively, it in the matter printed in italics.

Bection 105 is in force in this form in Eastern Bengal.

(Part 11.-Mode of Assessment.-Chapter VII.-Miscellaneous.—Secs. 106, 107.)

sion of the Commissioner and of the Board of Revenue', and all proceedings of the Commissioner under this Partshall be subject to the general control and supervision of the Board Revenue1.

control and supervi- Board of Revenue, and all such proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue1.

106. The Board of Revenue¹ may from time to time make, Board may and, when made, from time to time alter, add to or cancel, any make rules. rules 2-

- (a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or
- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under
- (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34;
- (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44;
- (c) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46;
- (f) regulating the proceedings of the Collectors under Chapter V;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in the Act. this Act.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918.)
For rules made under section 106 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

Ben, Act 9

(Part III.-Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Secs. 108, 109.)

Part III.—Constitution and Administration of the District Road Fund.

CHAPTER VIII.

CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND.

Constitution of District Bond Fund.

¹108. The District Road Fund of every district under this Act shall consist of the amount produced by the road cess,

of all sums levied or recovered as fines, penaltics or otherwise in respect of the cesses under this Act 3 [not being interest levied respect of public works cess.]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise,

²108. The District Road Constitution of District Fund of every district under Road Fund. this Act shall consist of the amount produced by the road cess.

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act *[not being interest levied in respect of public works cess,]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise, and

of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed.

109. The District Road Fund of every district shall be Fund of every district shall be Road Fund.

6 109. The District Road Application of District

¹ Section 108 is in force in this form in all areas in Bengal in which the Act is in force except

¹ Section 106 is in force in this form in all areas in Bengal in which the Act is in force except the Darjeeling district.

¹ Section 106 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the words printed in italies.

¹ These words in square brackets in s. 108 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 10, post, p. 619.

² The words in italies printed opposite were repealed (except in the Darjeeling district) by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, and are omitted.

² This section 109 [except the portion printed within square brackets] was substituted for the original section 109 by the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1886), s. 2, and is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling district.

a. 5, and is in force in the form in an access in Bangar in which the Act is in force except the Darjeiling district.

The differences in section 109 as in force in the Darjeeling district and elsewhere lie in the words printed in italics.

6 Section 109 is in force in this form in the Darjeeling district.

of 1000.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

applicable to the following objects and in the following order :-

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under Act.

And the balan e. after payment of such expenses, shall be credited to the District Fund of the district [and shall be applicable to the following objects, and in the following order, namely :-

(a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District RoadFund is applicable. and the repayment of such loans;

applicable to the following objects and in the following order:-

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector as mentioned in section 91 :

to the indemnification of the Collecter, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act:

and to the payment of such sums as may be determined by the Lieutenant-Governor 1 for the purposes mentioned in section 181, subject to the limit imposed in that section:

Secondly.—To the payment of establishments entertained and expenses incurred by the District Road Committee for the purposes of this Act, and of any levre-allowances. gratuities or pensions which may be payable under this Act;

Thirdly.—To the payment of any sums which the Committee may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication

Ben. Act 8 of

¹ Now the Governor in Conneil of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., item 1, in Vol. of this Code.

² The portion of this section 109 on this page and page 582 which is enclosed in square brackets were added by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 64. The salt Act was extended to Eastern Bengal by Ben. Act 1 of 1914, s. 5, Sch. I.

⁸ Printed post, page 907.

(Part III.—Constitution and Administration of the District Road Fund:—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

(b) the payment of the percentage referred to in clause Thirdly of section 53 of the said

(c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause Fourthly of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts;

(d) the payment of such of the expenses referred to in clause Fifthly of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act;

(e) the payment of the expenses referred to in clause Seventhly of section 53 of the said Act; and

(f) the making of investments referred to in clause Eighthly of the said section 53.]

within the district or between the district and adjacent districts;

Fourthly.—To the repair and maintenance of roads; bridges, water-channels and other means and appliances for facilitating communications which have been taken charge of by the Committee under this Act, or towards which they may have agreed to contribute;

Fifthly.—To the construction of new roads, bridges, water-channels and other means of communication;

neans of communication; to the construction. provision, repair and maintenance of any means and appliances for facilitating communication within the district or between the district and adiacent districts which the committee may determine to construct or to take charge of, or towards which they may determine to contribute;

to the planting of trees by the roadside; and

to the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage; and

Sixthly.—To investment in any local debenture loans issued by the Government of India or the Lieutenant-Governor for the construction of productive works, which may directly improve the means of communication

³ Now the Governor in Council of Fort William in Bengal,—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.-Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

> within the district, or between the district and adiacent districts:

Provided-

(1) that no sum shall be Proviso. expended from the District Road Fund in the construction of any channel for the purposes of irrigation, or for the purposes of drainage connected with any irrigation-works in charge of public officers,

or for the improvement or maintenance of any water-channel on which tolls are levied, when the proceeds of such tolls are not paid into the District Road Fund;

- (2) that no part of the District Road Fund of any district shall be applied to the construction or maintenance of any road within any first or second class municiunder pality the Bengal Municipal Act. 1876, 1 unless such Ben. Act 5 road shall have been excluded expressly from the operation of the said Act under section 32 thereof; and
- (3) that no part of the District Road Lund of any district shall be

¹ Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), and this reference should now be taken to be made to that Act—see s. 2 thereof, post, p. 710.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Chapter IX.—The District Road Committee—Secs. 110—112.)

expended on any work or for any purpose without the limits of such district, unless the special sanction of the Lieutenant-Governor' to such expenditure shall have been obtained, as being for the benefit of the district charged.

Committee may guarantee sums for District Road Fund se interest on capital.

Lieutenant-Governor may apportion costs of works extending over more than one district. '110. With the sanction of the Lieutenant-Governor,' the Committee may from time to time undertake to guarantee the annual payment from the District Road Fund of such sums as they shall think fit, as interest on capital expended on any works which may directly improve the means of communication within the district, or between the district and other districts.

portion of the road fund of any district is applicable under the last preceding section extend over more than one district, the Lieutenant-Governor may decide the proportions in which the road fund of each district concerned shall contribute towards the cost or interest upon the cost of such works.

CHAPTER IX.

THE DISTRICT ROAD COMMITTEE.

Constitution of District Read Committee. *112. For the administration of the District Road Fund and for the construction, repair and maintenance of district roads, bridges, waterchannels and other works as aforesaid under

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assan Laws Act, 1912 (7 of 1912), & S, and Sch. D, item I, in Vol. I of this Gode, a Sections 130 to 151 west repealed by the Bangal Local Belf-Government Act of 1865 (Ben. Act 8 of 1865), a. S, and are now in force only in the Darjeeling district.

(:1000)

(Part iII.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.— Secs. 113-116.)

> this Act, the [Commissioner] shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, any number of the payers of road cess of such district, their managers or agents, to be members of a District Road Committee.

²113. Every member of the Committee may Members may hold office for five years from the date of his five years.

1. Committee may Members may hold office for five years.

1. Committee may Members may hold office for five years.

1. Committee may Members may hold office for five years. appointment or election, and the [Commis- Resignation sioner] may at any time before the expiration of member. of such term of five years accept the resignation of such member.

114. The Lieutenant-Governor may re- Removal of move any member appointed or elected under member. this Act, if such member shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

2115. Any member who, without having Member who obtained permission from the Committee, shall attend meethave omitted to attend six consecutive meetings ingu, or in of the Committee,

and any member who shall have been sentenced to imprisonment,

shall cease to be a member of the Com-

mittee. 2116. In addition to the members appointed. Appointment or elected as aforesaid, the Lieutenant-Gover- members. nor may appoint any officer of Government to be a member of the Committee, and may direct, by a writing signed by him, that all persons holding the offices in such writing specified shall be ex officio members of the Committee for any district in which they exercise the said offices, and in which this Act shall have come into force:

Provided that the number of members of the Members Committee holding salaried offices under the ried offices Government shall not be more than one-third under Governof the total number of the Committee.

ead one

¹ This word "Commissioner", in sections 112 and 118, was substituted for the words "Lieutent-Governor" by the Bengal Cess (Amessiment) Act, 1910 (Ben. Act 4 of 1910), s. 21, in Vol. III this Code. ant-Governor"

of this Code.

See footnote³ on page 584 chte.
See footnote³ on page 584 chte.
Show the Governor in Council of Fort William in Bengal, see the Bengal, Bihar and Orissa and Research of the Governor in Council of Fort William in Bengal, see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., item 1, in Vol. I of this Code.
See 186 of orders made under section 116, see the Bengal Recal Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.— Secs. 117-121).

Proceedings not to be invalidated by reason of excessive proportion of officials. 1117. No act or proceedings of the Committee shall be invalidated by reason that at the time of doing such act or taking such proceedings the number of members of the Committee as then existing, who were holding salaried offices under the Government, was greater than the proportion mentioned in the last preceding section; and no act or proceedings of any meeting shall be invalidated by reason of the proportion of members holding such salaried offices as aforesaid present at the same being greater than as provided by the said section.

Their mode of transacting Business.

¹118. The Collector of the district shall be the Chairman of the Committee, and the Vice-Chairman shall be appointed as provided in section 129.

1119. The Committee shall have an office within the district in and for which they shall have been appointed, and shall meet for the transaction of business at least once in every quarter of a year.

1120. There shall be two kinds of meetings for the transaction of business, namely, special meetings and ordinary meetings.

121. Meetings of the following descriptions shall be special meetings:—

- (1) any meeting convened by the Chairman under section 123:
- (2) for the election of a Vice-Chairman under section 129;
- (3) for determining the salary of the Engineer under section 131;
- (4) for the election of an Engineer under section 132;
- (5) for determining the details of establishment, and the salaries to be attached to each office, under section 133;
- (6) for making rules for leave of absence under section 134, and for pensions and gratuities under section 138;

Chairman and Vice-Chairman.

committee to have an office.

Two kinds of meetings.

What are special meetings. of 1000.]

(Part III.—Constitution and Administration of the District Road Fund.-Chapter IX.-The District Road Committee.—Secs. 122-125.)

- (7) for considering and passing the general statement under section 141 or any revised or supplemental statement under section 143;
- (8) for preparing and framing an estimate of income and expenditure, and for determining the rate of road cess for the coming year under sections 146 and 148:
- (9) for amending any such estimate under section 157;
- (10) for receiving and considering the annual report and accounts under section 179;

All other meetings shall be ordinary meet-

122. The Chairman, or, in case of his President at absence at the time appointed for the meeting, the Vice-Chairman, shall preside at every meeting of the Committee. In the absence of both the chairman or Vice-Chairman, the members present may choose one of their number to be president of such meeting.

1123. The Chairman, or, in case of his Meeting to absence, the Vice-Chairman, may, whenever he requisition. thinks fit, and shall, upon a requisition made in writing and signed by not less than one-third of the members, convene a meeting.

1124. At least ten days' notice shall be given Notice of

of every meeting.

Every notice shall state the business to be transacted at the meeting proposed to be called; and no business other than that so stated shall be transacted at such meeting, except with the permission of the meeting.

1125. (1) No business shall be transacted at Quorum. any special meeting unless at least one-fourth of the total number of members forming the Committee at the time of the meeting are present at the commencement and close of such business; and no business shall be transacted at an ordinary meeting unless at least three members are so present.

¹ See footnotes on page 584, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 126, 127.)

Delegation of powers to Sub-Committee.

Adjournment, voting, etc.,

Adjourned meeting.

Minute-hook to be kept. (2) The Committee may delegate any of their powers to Sub-Committees consisting of such member or members of their body as they think fit.

Any Sub-Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Committee.

(3) The Committee may hold meetings and

adjourn as they think proper.

Questions at any meeting shall be determined by a majority of votes of the members present, and, in case of an equal division of votes, the president shall have a second or casting vote.

1126. If at the time appointed for a special meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned till some future day to be appointed by the Chairman or Vice-Chairman of the Committee, and ten days' notice of such adjourned meeting shall be given.

The members present at such adjourned meeting shall form a quorum, whatever their

number may be.

1127. The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the Committee, and any person resident in, or owning or holding land in, the district may at all reasonable times inspect and examine such book without payment of any fee, and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor may direct.

At the request of any member of the Committee who is not acquainted with the English language, the Chairman shall cause to be delivered to such member an abstract of the minutes of any meeting in the vernacular of the district.

See footnote² on page 584 anie.
 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and seam Laws Act, 1812 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1880.

(Part III.-Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committes.-Secs. 128, 129.)

> correspondence between the correspond-Committee and the Lieutenant-Governor's shall committee pass through the office of the Commissioner, and Lieutenwho in all things under this Part shall be ant-Governor. subject to the control and supervision of the Lieutenant-Governor 2

> The Committee shall furnish the Lieutenant-Committee to Governor and the Commissioner respectively formation. with any information for which they may call, connected with the duties imposed upon them by this Act.

Their Vice-Chairman, Engineer and Establishment.

1129. The first meeting of the Committee Appointment of Viceshall be convened by the Chairman at such of Vice-Chairman. time as he shall think fit, and shall proceed to nominate one of the members of the Committee to be Vice-Chairman of the Committee, and shall submit to the Lieutenant-Governor the name of the person so nominated; whereupon the Lieutenant-Governor may, if he think fit, appoint such person to be Vice-Chairman of the Committee, or may require the Committee to nominate and to submit to him the name of some other person, and whenever the office of Vice-Chairman shall be vacant a Vice-Chairman shall be nominated and appointed in the manner above mentioned:

Provided that whenever the office of Vice- Vice-Chair-Chairman shall become vacant, the Chairman, man may be appointed may, with the approval of the Commissioner, ad interim. appoint any member of the Committee to be Vice-Chairman thereof ad interim until the vacancy shall have been filled up by appointment as above provided.

The Vice-Chairman may hold office for a vice-Chairperiod not exceeding two years, and at the office for expiration of that time may be re-nominated twayears. by the Committee and re-appointed to the office by the Lieutenant-Governor.

See foot-note a on page 584, ante.
 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Örissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 130-132.)

Removal of Vice-Chair-

1130. The Lieutenant-Governor may, if he think fit, upon the recommendation of twothirds of the members voting at any special meeting, remove the Vice-Chairman, and any member entitled to vote may give a proxy in writing to any other member for the above purpose.

Proxies allo wed.

Such proxy shall be produced at the time of voting, and shall entitle the member to whom it is given to vote as authorized by the tenor of

Salary of District Engineer. such proxy.

¹131. The Committee at a special meeting shall determine the salary which they are prepared to give to the District Engineer, and shall report the same to the Lieutenant-Governor's, who may approve of such salary, or require the committee to increase or to reduce the same. In determining such salary regard shall be had in each district to the character of the works and the nature of the duties required therein. The salary so determined and approved may from time to time be altered by the Committee with the approval of the Lieutenant-

Governor².

132. (1) Whenever the office of District Engineer shall be vacant, the Committee shall represent the occurrence of such vacancy to the Lieutenant-Governor, who shall thereupon cause a list of qualified officers not being less than three in number to be laid before the Committee, and the Committee shall proceed to elect a District Engineer from the persons

named in such list.

(2) All appointments of District Engineers existing at the time of the commencement of this Act shall hold good for a period not exceeding two years from such com-mencement, and on the expiration of such time every office of District Engineer to which the last appointment shall have been made before the commencement of this Act shall be deemed to be vacant, and a District Engineer shall be appointed in manner above prescribed:

Appointment of Engineer.

Existing

See foot-note n on page 584 ante.
 Row the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orinea and sam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.-Chapter 1X.-The District Road Committee.—Secs. 133, 134.)

> Provided that, if the Lieutenant-Governor and the Committee are satisfied that no change is required, any person holding the appointment of District Engineer at the time of the commencement of this Act may, with the sanction of the Lieutenant-Governor, be re-appointed by the Committee to be District Engineer.

(3) The District Engineer may be suspended, Engineer m removed or dismissed from his office by the beauspended or dismissed Lieutenant-Governor. beauspended by Lieutenant-

133. The Committee, subject to the limit of Establish. cost imposed by section 135, may, with the ments and sanction of the Commissioner, determine, and to shared. from time to time alter, the details of the establishment of officers (other than the District Engineer), clerks and servants to be employed by them or by any Branch Committee as hereinafter appointed, and the salary to be paid to each such officer, clerk or servant:

Provided that no salary exceeding Rs. 200 a month shall be attached to any office without the express sanction of the Lieutenant-

Governor.1

Appointments to offices on the establishment Appointment how to be so determined shall be made as follows:—

to every office of which the salary does not exceed Rs. 50 per mensem by the Chairman of the Committee or of the Branch Committee, as the case may be;

to every office of which the salary exceeds such amount, by the Committee or the Branch Committee, as the case may be, with the approval of the Commissioner.

Any such officer, clerk or servant as aforesaid may be suspended or dismissed by the authority appointing him, subject to an appeal to the Commissioner, whose decision shall be final.

134. The Committee shall make such rules Leave of as to leave of absence and absentee allowances as they from time to time may think fit for their own officers and servants, as well as for those of any Branch Committee:

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

8 See footnote 2 on page 584, auts.

(Part 111.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee—Secs. 135-138.)

> Provided that, in the case of District Engineer drawing a salary of Rs. 200 or upwards per mensem, leave of absence on medical certificate may be granted by the Lieutenant-Governor1 in accordance with the rules contained in Supplement F of the Civil Leave Code, or any other rules' for the time being in force for uncovenanted officers of Government, and that no other leave of absence shall be granted to a District Engineer by the Committee without the sanc tion of the Lieutenant-Governor.1

> *135. The aggregate salaries and absentee allowances of the Engineers, officers, clerks and servants aforesaid, entertained by any District Road Committee and by all Branch Committees in any district, together with the expenses of the Collector's establishments under section 91, and the amount which such District Road Committee is required to pay under section 181, shall not for any one year, without the express sanction of the Lieutenant-Governor, exceed one-fourth of the income of the Committee for the said year, exclusive of the balance of the previous year.

> 136. The Lieutenant-Governor, on the application of two-thirds of the committees in any division, appoint a Divisional Superintendent of Works with the necessary office establishment, for the control and supervision of the executive works establishment in all districts of such division, and may determine the proportion of the cost payable by each district in

the division in respect of the same.

*137. The Lieutenant-Governor may, on the application of any number of districts, whether forming part of the same division or otherwise, appoint a Superintendent of Works and establishment as aforesaid for such district, and determine the proportion of the cost payable by each such district in respect of the same.

138. The Committee may, with the approval of the Lieutenant-Governor,1 make rules for pensions and gratuities to be granted and paid

Balaries not to exceed fourth of income.

Appointment of Divisional ent of Works

Appointment of Superintendent of Works for goup of districts.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, item 1, in Vol. I of this Code.
 See now the Civil Bervice Regulations, 5th edition, 1910.
 See footnoted on page 588, a siz.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 139, 140.)

> out of the District Road Fund to their officers and servants, and to those of any Branch Committee, and to the members of any establishment appointed by the Collector of the district under section 91, and may from time to time, with such approval, repeal, alter or add to such rules:

> Provided that no officer shall be entitled to any pension or gratuity under this Act from the road fund of any district in respect of any period during which he was not serving under the Committee of such district, or under the Collector of such district on an establishment entertained under section 91 for the purposes of this Act:

Provided also that no officer lent by Government and contributing from his salary to any pension fund shall be entitled to claim any pension from the District Road Fund.

THEIR FUNCTIONS.

1139. The Committee may, through their Mode of exe-Chairman or Vice-Chairman, enter into and tracts. execute any contract necessary for the purposes of this Act:

Provided that every contract made on behalf of the Committee in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the Committee and shall be in writing and signed by at least two of the members of the Committee, one of whom shall be the Chairman or Vice-Chairman.

Unless so executed, such contract shall not

be binding on the Committee.

1140. No member, officer or servant of the members at Committee shall be in anywise pecuniarily inter- officers being ested in any contract or work made with, or pecuniarily executed for, the Committee; and, if any such contracts. member, officer or servant be so interested, he shall be incapable of afterwards continuing to be a member of the Committee or holding or continuing in any office or employment under the Committee, and shall be liable on conviction thereof to a fine of five hundred rupees:

Bon. Act S

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 141-143.)

Exception.

Statement of communications to be prepared.

Statement to be forwarded to Commissioner.

Supplementa statement.

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any Company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint stock companies, passed by the Parliament of the United Kingdom, or by any Indian Legislature, which may enter into any contract with the Committee, or execute any work for the Committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to the Committee the extent of his interest in such Company, and, if he be an officer or servant of the Committee, obtain the sanction of the Committee to his continuing to be such officer or servant.

1141. On the commencement of this Act in any district or part of a district, the Vice-Chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, water-channels and other means of communication to be brought within the operation of this Act within the three years then next ensuing, and the Committee shall, at some meeting to be held within one month after the submission of such statement or at any adjourned meeting, take such statement into consideration, and may pass such statement, or may make such alteration or addition therein as it shall think fit.

Such statement shall be prepared with due advertence to the provisions of section 109.

142. The Committee shall forward the statement which shall be passed as provided in the last preceding section to the Commissioner for transmission to the Lieutenaut-Governor!

1143. The Vice-Chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 141 or a revised statement, and every such supplemental or revised statement shall be subject to the provisions of the last two preceding sections with respect to the statement therein mentioned.

See footnoie ² on page 584, ante.
 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisus and Assam Laws Act, 1912 (7 of 1913), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Parl III.—Constitution and Administration of the District Road Fund.-Chapter IX.-The District Road Committee.—Secs. 144-148.)

> 1144. The Lieutenant-Governor may at Lieutenantany time order that any road, bridge, water- may include channel or other means of communication as or exclude abovementioned be included in, added to, or or from excluded from, any statement or supplemental statement. or revised statement prepared as mentioned in section 141 or 143.

Estimates: Determination of the Rate for the Year, and Publication thereof.

1145. The Collector shall, at such date as Collectorto the Committee shall fix, prepare and deliver to Committee the Committee a statement showing under annual statement of separate heads the estimated proceeds for the estimated year then next ensuing of the road cess at the assets for coming year. maximum rate hereinbefore provided, and also of any sum and of any sources of revenue for the said year which the Lieutenant-Governor? shall have assigned to the said district, or which may be otherwise at the disposal of the Committee.

1146. The Committee shall, at some meeting Annual to be held in such month as the Lieutenant- be prepared. Governor² shall determine³, prepare an estimate of the income and expenditure of the Committee for the year then next ensuing.

147. Notwithstanding that any work has works not to been included in such estimate, the Committee shall not begin the execution of any work until stimates detailed specifications and estimates of the same or execution have been passed, or until the execution of the sanctioned. work shall have been otherwise sanctioned by any authority whose sanction to the execution of such work is required under any rules made by the Lieutenant-Governor' on that behalf as hereinaster provided.

1148. In making the estimate of income as Committee to by the last section required, the Committee rate of road shall take into consideration any sum and the proceeds of any source of revenue which shall have been placed at their disposal by the Lieutenant-Governor², or which may otherwise

¹ See footnote ³ on page 584, απte.
⁸ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orless and seam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.
⁸ For an order made under section 146, see the Bengal Local Statutory Rules and Orders, 1912,

(Part III.-Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 149-151.)

> be available to them, and any unexpended balance of the District Road Fund of the previous year which is expected to be available for expenditure in the year of estimate; and shall proceed to determine the rate at which it will be necessary to levy the road cess for the lastmentioned year, so as to provide the further amount estimated to be required for expendi-

ture in the said year.

1149. The total amount proposed to be expended in any one year in and by any estimate prepared as required by section 146 shall not exceed the proceeds estimated to be at the disposal of the Committee for that year from the road cess, if levied within the district at the maximum rate at which such cess is leviable as mentioned in section 6, together with any sum, and the annual proceeds of any source of revenue which shall have been placed by the Lieutenant-Governor² at the disposal of the Committee, or which may be otherwise at their disposal, and with the estimated unexpended balance of the District Road Fund of the previous year as above mentioned.

1150. Every such estimate prepared by the Committee under section 146 shall be forwarded through the Collector of the district to the Commissioner; and the Commissioner may approve such estimate and the rate determined

by the Committee.

1151. If such estimate shall have been approved by any number, being less than twothirds, of the members of the Committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make such alterations as he shall think fit in the details or total of such estimate, or may return such estimate to the committee with instructions to make any such alterations in such details or total:

Provided that the Commissioner shall not make, and shall not require the Committee to make, otherwise than with their own consent, any such alterations as shall have the effect of

Limit of

Commission may revise estimate.

Commissioner may under alter estimate

(Part III.-Constitution and Administration of the District Road Fund.-Chapter IX.-The District Road Com. mittee.—Sec. 152.)

> raising the total of such estimate above the total of the sum estimated to be at the disposal of the Committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the Committee under section 148.

> On receipt of such instructions the Committee shall proceed to make such alterations, and shall re-submit the estimate to the Commissioner, who shall thereupon approve of the estimate and of the rate determined by the Committee.

¹ **152.** (1) If any estimate prepared under Procedure section 146 shall have been approved by any number, not being less than two-thirds, of the benapproved members of the Committee present at the by the twomeeting at which such estimate was adopted, thirds of Committee. the Commissioner may, before approving of such estimate, make a communication to the Committee, bringing to their notice any alterations which it appears to him to be desirable to make in the details or total of such estimate:

and, on receipt of such communication, the Committee shall proceed to re-consider such suggestions, and may either-

- (a) adopt such suggestions or any of them and revise their estimate accordingly, and, if necessary, the rate determined by them as that at which the cess shall be leviable during the coming year, and submit such revised estimate and rate for the sanction of the Commissioner; or
- (b) may adhere to their original estimate, and re-submit it to the Commissioner with their reasons for adhering to the same.
- (2) On receipt of such estimate so re-submitted, the Commissioner may either sanction the estimate and rate as determined by the Committee, or may submit such estimate, together with the reasons recorded by the Committee for adhering to the same, to the Lieutenant-Governor.3

where estimate has

¹ See footnote ² on page 584, aute.
² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Law a Act. 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

[Bon. Act 9

(Part III.—Constitution and Administration of the District Road Fund.—Ch pter IX.—The District Road Committee.—Secs. 153-155.)

When estimate is submitted by Commissioner, Lieutenant-Goyernor may pass orders thereon.

153. Whenever any such estimate shall be so submitted by the Commissioner, the Lieutenant-Governor? may approve of such estimate, or pass such orders as he shall think fit, in respect to the alteration of the details or of the total of such estimate:

Provided that the Lieutenant-Governor² shall not make any such alterations, or require the Committee to make any such alterations, as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the Committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the Committee under section 148, unless such rate shall in the opinion of Lieutenant-Governor² be insufficient to provide for the proper maintenance of such works as are contained in the statement prepared under section 141 or 143.

If it shall appear to the Lieutenant-Governor² that the proceeds of the cess at the rate so determined will not suffice for such purpose, the Lieutenant-Governor² may order that the cess shall be levied for the year in question at such rate as he may deem sufficient for such purpose, subject to the limit in section 6 provided.

1154. When the estimate prepared and the rate determined by the Committee shall have been approved by the Commissioner under sections 150, 151 or 152, the rate so determined and approved shall be reported by the Commissioner to the Lieutenant-Governor, who shall forthwith cause the same to be published in the Calcutta Gazette.

155. When the Lieutenant Governor's shall under section 153 have approved of any estimate submitted to him as provided by section 152 and of the rate determined by the Committee under section 148, or under clause (a) of section 152 in connection with such estimate, or when the Lieutenant-Governor's shall under section 153 have ordered that the cess shall be

Rate determined to be reported to Lieutenant-Governor.

Rate to be sublished in Jasette.

See footnote ³ on page 584, ante.
 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, item 1, in Vol. I of this Code.

of 1000.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.— Chapter X.—Branch Committees.—Secs. 156-158.)

> levied at any other rate, the Lieutenant-Governor shall cause such rate as finally fixed by him to be published in the Calcutta Gazette.

y him to be published in the said Gazette Base publish.

The rate published in the said Gazette Base published in the sai as provided in either of the last two preceding of to be rate in force for sections shall be the rate at which the year. road cess shall be leviable in the district for the year in respect of which such rate is so published, and the Collector of the district shall cause such rate to be published and proclaimed throughout the district and notice be given thereof as in section 40 is provided.

2157. Any estimate prepared under section Estimates 146 and approved as hereinbefore provided may may be amended. be amended or revised at any time with the sanction of the authority who originally approved of such estimate:

Provided that the total of the estimate of expenditure as amended shall not exceed the total of the sums estimated to be available for expenditure during the year.

CHAPTER X.

Branch Committees.

² 158. In any district to which this Act Branch shall have been extended, the Lieutenant-Governor 1 may, in addition to a District Road Committee, form 3 as many Branch Committees as he shall think fit for carrying out the purposes of this Act, and shall appoint a Chairman and Vice-Chairman thereof, respectively, and shall define the portion of such district within which any Branch Committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act:

Provided that, whenever the office of Vice-Chairman of any Branch Committee shall become vacant, the Chairman thereof may, with the approval of the Commissioner, appoint any

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orlsan and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, item 1, in Vol. I of this Code.

* See footnote * on page 584, and.

* For an order made under section 158, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

[Bon. Act 9

(Part III.—Constitution and Administration of the District Road Fund.—Chapter X. Br. nch Committees. - Secs. 159-164.)

member of such Branch Committee to be Vice-Chairman thereof ad interim until the vacancy shall have been filled up by the Lieutenant-Governor.

*159. The provisions of sections 112 to 117 (both inclusive), 119, 122 to 127 (both inclusive), 139 and 140, respecting District Road Committees, shall apply, so far as the same are applicable, to such Branch Committees.

remove the Chairman or Vice-Chairman of a Branch Committee whenever he shall think fit.

² 161. Every Branch Committee may from time to time select any member thereof to be an additional member of the District Road Committee, and such member shall thereupon, for the space of one year, become a member of the said Committee.

*162. Every such Branch Committee shall be, except as hereinafter provided, subordinate to the District Road Committee, and shall forward to the Committee such statements, suggestions and estimates as it may think fit, and the Committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed.

²163. Any such Branch Committee may require that any such statement, suggestion or estimate shall be submitted to the Commissioner for his consideration and for that of the Lieutenant-Governor.¹

*164. The Lieutenant-Governor¹ may in each year assign to any Branch Committee to much of the road fund levied for that year in the district, for portion of which such Branch Committee is appointed, as he may think fit, not exceeding the total estimated proceeds of the road cess leviable within the said portion of the district; and, further, may allot to the said Branch Committee so much of the income of the District Road Fund from other sources as he shall think fit.

Sections which apply to them.

Chairman and Vice-Chairman may be removed.

Member of Branch Committee may be additional member of District Committee.

Branch Committee's statements.

Brauch Committee may require statements to be submitted to Lieutenant-Governor.

Funds of the Branch Committee.

(Part III.—Constitution and Administration of the District Road Fund .- Chapter X .- Branch Committees .-Secs. 165-168.)

> 1165. The Lieutenant-Governor may in Special any such case declare that the Branch Committee shall have the full powers of a District Road Committee within such portion of the district, and, whenever the Lieutenant-Governor shall so have declared, the District Road Committee shall, within such portion of the district, cease to exercise powers and functions under sections 133, 139, 141, 142, 143 and 146,

Such powers shall then vest in the Branch Committee and the provisions of sections 120, 121 [with the exception of clauses (2), (3), (4) and (6)], 128, 142, 144 and 147, shall apply to the proceedings of such Branch Committee, provided that all correspondence with the Commissioner shall be submitted through the Collector of the district; in any case in which the Lieutenant-Governor may declare that a Branch Committee shall have the powers of a District Road Committee for specified works or specified purposes only, the powers of the District Road Committee in respect of such works and such purposes only shall cease within the said portion of the district, and such powers shall then vest in the Branch Committee.

1166. Every Branch Committee so vested Their with powers as in the last preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 146 to be prepared by the District Road Committee.

167. The provisions of sections 150, 151, Limit of 152, 153 and 157, shall, as far as they are appli-

cable, apply to such estimate:
Provided that the aggregate amount to be expended by the Branch Committee in any year should not exceed the aggregate of the fund placed at their disposal for that year.

1168. The Lieutenant-Governor' may at any Lieutenant Governor time order that any of the functions hereafter mentioed or referred to in Chapter XI shall be discharged by any Branch Committee instead

See foot-note ? on page 584, ante.
Nov the Governor in Council of Fort William in Bengal—see the Bangal; Milesam Laws Act, 1912 (s of 1913), s. 8, and Sch. D, item 1, in Yol. I of this Code.

Time Act o

(Part III.-Constitution and Administration of the District Road Fund.—Chapter X.—Branch Committees.—Chapter X1.-Disbursement and Accounts of the District Road Fund.—Secs. 169-171.)

> of by the District Road Committee in respect of any portion of the district for which such Branch Committee has been appointed.

> 1 169. The Lieutenant-Governor 2 may at any time revoke an order forming any Branch Committee or an order declaring that a Branch Committee shall exercise the full powers or any special powers of a District Road Committee.

Governor may revoke order forming Branch Committee

Lieutenaut-

CHAPTER XI.

DISBURSEMENT AND ACCOUNTS OF THE DISTRICT ROAD FUND.

1170. The District Road Fund shall be lodged with the Collector of the district, who shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, showing in detail therein all sums paid into and all disbursements made from the treasury on account of the District Road Fund during the year.

After the appointment of any Branch Committee in a district, the Collector of the district shall in like manner keep a separate account of the Fund placed at the disposal of such Branch Committee.

1171. All payments on account of the District Road Fund shall be made by the Collector out of the said Fund upon cheques signed by the Vice-Chairman for sums not exceeding one hundred rupees.

When the Vice-Chairman is absent or from any cause incapacitated from signing, the Chairman may sign such cheques on behalf of the Vice-Chairman.

Cheques for sums exceeding one hundred rapees shall be signed by the Chairman and the Vice-Chairman.

Collector to

prepare an-nual statement

of the District Road

Fund.

Payments on account of the District Road Fund.

(Part III.-Constitution and Administration of the District Road Fund.—Chapter XI.—Disbursement and Accounts of the District Road Fund .- Secs. 172-176.)

> When the Vice-Chairman is absent or from any cause incapacitated from signing, such cheques shall be signed by any ex officio member of the Committee other than the Chairman, on behalf of such Vice-Chairman.

> The word "Chairman" in this section includes any officer for the time being in charge of the office of Chairman under a written order from the chairman.

172. The Collector shall forward to the Collector's Vice-Chairman of every Committee as soon as monthly second. possible after the close of each month, on account of his receipts and disbursements on account of the District Road Fund during such

173. Every Committee shall keep regular Accounts of and detailed accounts of the moneys received Committee. or applied by them under the provisions of this Act and of their application, and such accounts shall be, at all convenient times, open to the inspection of all members of the Committee.

1174. Every Committee shall appoint a Committee to standing Sub-Committee, consisting of the Vice- appoint a sub-committee Chairman and not less than two other members, to audit for the audit of their accounts: and the accounts of each month shall be laid before the Sub-Committee as soon as possible after the close of such month: whereupon the said Sub-Committee shall proceed to audit the said accounts in such manner as the Lieutenant-Governor * may direct, and to pass or to amend and correct the said accounts as may be necessary, and to pass them as so amended and corrected.

175. For the purposes of every audit and examination of accounts under this Act such for rouchers Sub-Committee shall have power to call for all and papers; vouchers and papers which they may require.

176. When such Sub-Committee shall have and certify audited and passed the accounts of any month accounts. as above provided, they shall certify the result and the correctness of the accounts as passed by them in such form as the Lieutenant-Governor may direct.

See footnote s on page 584, ante. New the Governor in Council of *Mew the Governor in Council of Fort William in Bengal—see the Bengal. Bile and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter & L.—Disbursement and Accounts of the District Road Fund.—Secs. 177-180.)

Accounts to be submitted to officer directed by the Lieutenant-Governor.

Vice-Chairman to prepare account of receipt and a report.

Accounts to be certified by Sub-Committee and transmitted to Lieutenant-Governor.

The Committee may make by-laws with approval of Lieutenant-Governor.

¹177. The accounts of each month, audited, passed and certified as in the last preceding section provided, shall be submitted by the Committee, not later than the twenty-fifth day of the following month to such officer as the Lieutenant-Governor ² may direct.

1178. As soon as possible after the close of each year, the Vice-Chairman of every Committee shall prepare a detailed account of the receipts and expenditure of the District Road Fund during such year and also a report of the work done and in progress during such year, whether under the directions of the District Road Committee or of any Branch Committee which has been vested with the full powers of a District Road Committee under section 165.

1179. The annual accounts so prepared by the Vice-Chairman shall be examined and certified by the Sub-Committee of audit, and, after such examination and certification, shall be laid with the said annual report before a special meeting of the Committee to be held within two months of the close of such year; and the Committee shall submit a copy of the said account with a similar report to the Commissioner for transmission to the Lieutenant-Governor², who shall cause such accounts, with an abstract of such report, together with such remarks as the Commissioner may have made thereon, to be published in the Calcutta Gazette.

1180. Every District Road Committee may from time to time make, and when made, alter, add to or cancel, by-laws and inconsistent with the provisions of this Act, for all or any of the following purposes, that is to any:—

 regulating the traffic and providing for the safety and convenience of passengers on any road, water-channel or other means of communication under the charge of the Committee;

See footnote ² on page 584, safe.

1 Now the Governor in Council of Fort Willam in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1913), a. 3, and Sch., D, item 1, in Vol. I of this Code.

2 For by-laws made under section 180, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Ft. VI.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter XII.—Miscellaneous.—Sec. 181.)

(2) providing for the preservation of such roads, water-channels and other means of communication, and of the trees planted by, or under the charge of, the Committee.

On conviction before a Magistrate a fine may Fines. be imposed for the breach of any such by-laws:

Provided that no fine exceeds for any offence the sum of ten rupees or, in the case of a continuing offence, the sum of two rupees for every day during which such offence is continued.

Any by-law so made, and every alteration of, addition to and cancellation of such by-law, shall require the sanction of the Lieutenant-Governor1;

and, on such sanction being given, such byby-laws to
be published in the Calcutta Gazette in Gazette.

In Gazette. and in the vernacular of the district, as the Lieutenant-Governor 1 may direct;

and on such publication such by-law shall have the force of law.

CHAPTER XII.

MISCELLANEOUS.

181. The Lieutenant-Governor may from Lieutenant time to time direct that such establishments shall be entertained, and such expenses incurred, in the offices of the Board of Revenue, establishments. of the Commissioners of divisions and of the P Superintending Engineers, in any other office of control, in any office of account and in any treasury, or that such special officers shall be employed and such expenses incurred by them, as may be necessary,

for the exercise of proper control over the proceedings of the Collectors and District Road Committees and Branch Committees in the discharge of their duties under this Act,

How the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, item 1, in Vol. I of this Code.

See Tootnote 2 on page 584, cate.
Sat to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part IV.-Chapter XIII.-General.-Sec. 182.)

for the proper examination and checking of estimates furnished and accounts kept under this Act, and for the proper audit of such accounts,

and for the performance of the duties connected with the cash transactions of the District Road Committees;

and the Lieutenant-Governor¹ may make rules providing for the recovery of the cost of the establishments so entertained, and the officers so employed, and of expenses so incurred, from the several District Road Committees in such proportions as he may think fit:

Provided that the total amount which any District Road Committee is required to pay under this section shall not in any year exceed two per centum on the income of such Committee for such year.

Part IV.

CHAPTER XIII.

(TENERAL.

Lieutenant-Governor em powered to prescribe forms and rules. 182. The Lieutenant-Governor may from time to time make, and, when made, from time to time alter, add to or cancel, any rules, not inconsistent with the provisions of this

'(a) regulating the performance of the duties of the District Road Committees and Branch Committees, and of all persons employed under this Act, and in regard to the qualification, appointment, election and discharge of such persons;

¹ Now the Governor in Council of Fort William in Bengal—ser the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1. in West I of this Code.

8. Now the Governor in Council of Fort William in Bengal—ser the Bengal, Bihar and Orissa and Assame Laws Act, 1913 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

8 For rules made under service 183 (c) and (f), for Bangal as constituted on the Sist March, 1913,—see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

4 (Tames (a) of s. 123 was repealed by the Bengal Local Saft-Government Act of 1885 (Ben. Act 3 of 1885), s. 2, and is now in force only in the Darjeeling Alperiot

(Part IV.—Chapter XIII.—General.—Sec. 182.)

- 1(b) prescribing the authorities by whom the execution of works of different classes respectively may be authorized and sanctioned;
- 1(c) prescribing forms for the estimates, accounts, reports and statements required by this Act to be kept or made by the District Road Committee:
- (d) prescribing forms of accounts to be kept by the Collector under this Act;
 - 1(e) providing for the submission and checking of any estimates or accounts and for the audit of such accounts as aforesuid;
- (f) fixing the dates for payment of instalments of cess under sections 42 and 57°;
 - 1(g) determining the amount of fees to be levical for supplying copies of proceedings of any District Road Committee or Branch Committee as provided in section 127:
 - 1(h) fixing the month in which the meeting mentioned in section 146 shall be held:
- (i) and generally for the purposes of this Act.

Such rules shall be published in the Calcutta Gazette and shall thereupon have the force of law.

¹ Clauses (b), (c), (s), (g) and (A) of s. 182 were repeated by the Bengal Local Self-Government Act et 1886 (Ban Act S of 1885), s. 2, and are now in force only in the Darjeeling district.

The power to fix dates for payment of instalments of esse under s. 57 is now vested in the Board of Revenue—see that section as printed assi, p. 568.

l'Basi, Ast S

(Schedule A.)

SCHEDULE A.

Form of Return prescribed by section 14.

Amount of Government revenue or rent payable by the estate or tenure:

Rs. A. P.

PART J.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupaion or cultivation of the person submitting the return:—

2	3		
Name of village and thene in which the lands are situate.	Ares of land 1 [if known].	Deduct area of land attente within any municipality.	Annual value of remaining land,
	Name of village and	Name of willage and stand in which the lands are utuate. Area of land in [if known].	Name of village and fasse in which the lands are attuate. Area of land lift before a fluste within any manifolyality.

² Norm.—In the body of this statement should be entered only nijfot lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of descentment on their annual value.

These words in square brackets in the heading of column 3 of Part I were inserted by the Bengul Case (Amendment No. 3) Act, 1881 (Ben. Act 2 of 1881), s. 11, post, p. 630.

3 This note to Part I was substituted for the original note by the Bengul Case (Amendment 30. 3) Act, 1984 (Ben. Act 2 of 1881), s. 11, post, p. 630. The original note ran thus :—

" Horza.—Only nipse lends and unculturable untel lands should be included in this Part."

of 1000.]"

(Schedule A.)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating raiyats paying direct to the persons submitting the return:—

1	2	3	4	5	6	7
Pargana.	Name of village and thana in which the lands are situate.	Name of raiyat, name of village, thana and district in which he resides.	Area occupied '[if known.]	Annual rent.	Deduct rent of land included in any municipal- ity.	Balance of net rent as- невнаble.

PART III.

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return:—

1	2	3	4	5	- 6	7	н
Name of tenure-holder and person paying rent for him borne on the books of holder of es- tate or tenure.	Name of village, thana and district in which such person resides.	Name of village and thana in which tenure is situated.	Name of village and thana in which mál-cutcherry is situate.	Area if known.	Annuel rent paid by tenure- holder.	Deduct rent of land in- cluded in any munici- pality.	Balance of net rent assess- able.
							.,

PART IV.

District

Name and number of estate or tenure as in Part I.

Details of lands included in the estate or tenure of the person

¹ These words in square brackets in the heading of column 4 of Part II were added by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 12, post, p. 630.

Ben, Act 9

(Schedule B.)

submitting the return which are held by others than himself but for which no rent is paid:—

1	2	3	4	5	6	7
Pargana in which situate	Name of village and thâna in which situated,	Name of holder, and owner, if known.	Name of village, thána and district in which the holder resides.	Area, if known.	Deduct area of land included in any muni- cipality.	Annual value of remaining land.

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

FORM No. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

The holders of estate or tenure (description to be filled in) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended

of 1880.

(Schedule B.)

time which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within

six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of

such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE.

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II,
III and IV of the return which is mentioned in
Schedule A.

FORM No. 11.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT. 1880.

The holder of the revenue-free estate of rent-free tenure (description to be filled in) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and he so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such

time until such return be so lodged.

(Schedule C.)

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months

of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE.

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II,

111 and IV of the return which is mentioned in

Schedule A.

SCHEDULE C.

Form of Notice under section 33.

District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880.

THE owner, the chief agent, manager or occupier of (give the name by which the concern or property is known) situated in the district of , is hereby required to lodge in the office of the Collector of of a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said

. Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rapees for every day after the expiry of such period or extension thereof until such return shall be presented.

Form of return to be annexed to the Notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from

of 1880.]

(Schedule D.)

Government and used for the cultivation of tea, coffee or cinchona, under the control of the person submitting the return :—

1	2	3	4	5	6	7
Districts	Pargunas and thanas	Designation by which the estate, lot or	Name of owner,	Entire	Area or areas of	Aggregate value at
in which the lands lie.		grant is known, and the number it bears on any register kept by the Collector.	agent, manager or occupier.	arca of laud.	lands under culti- vation.	Rs. 10 per acre of land in ¹ [column 6].
	-		l			

I, X. I. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed ______

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE D.

Form of Notice under section 52.

NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER SECTION 52 OF THE CESS ACT, 1880.

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation-returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual

¹⁻This word and figure in square brackets in the heading of column 7 were substituted for the word and figure "column 5" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), a. 18,000, p. 620.

(Schedule E.)

value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the Lieutenant-Governor may fix for the payment of such instalment, the holder of the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit.

SCHEDULE E.

Form of Notice under section 72.

District of

NOTICE UNDER SECTION 72 OF THE CESS ACT, 1880.

THE owner, chief agent, manager or occupier of the (give the designation of the property), situated in the district of , is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed, showing the net profits of the calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent, and be lodged within the space of two months from service of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector.²

COLLECTOR'S OFFICE.

(Sd.) A. B.,

Dated

Annexed form of Return.

District

Detail of yearly profits of mines, quarries, railways and tramways or other immovable property in the possession or under the control of the person submitting the return:—

ĭ	3	3	4	
Districts	Parganas	Name of holder or	Annual net profits per assum on the average of the las- three years for which accounts have been made up.	
in which the	property lies.	manager.		
*****		A distance on the second of the second		
	•	,		
		ì		

More the Board of Revenue—see s. 57 as printed ante, p. 568.

For penalty for omitting to lodge a return, see s. 75 A, ante, p. 568.

of 1880.]

(Schedule F.) -

I, X.Y.Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under section 99.

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

THE occupiers, tenure-holders, under-tenants and raiyats on estate or tenure (the estate, tenure or lands to be here clearly designated) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within such estate or tenure except to the Collector of the said district or to (name of person) hereby appointed to receive the same. The Collector will grant receipts for all sums paid; and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order, will be null and void.

(Sd.) A. B.,

Collector.

BENGAL ACT 2 OF 1881

[THE BENGAL CESS (AMENDMENT No. 2) ACT, 1881].

CONTENTS.

PREAMBLE,

SECTION.

- 1. Amendment of section 9 of the Coss Act, 1880.

- Amendment of section 9 of the Coss Act, 188
 Amendment of section 10.
 Amendment of section 13.
 Introduction of new section after section 40.
 Amendment of section 42, clause (1).
 Amendment of section 43.
 Addition to section 44.
 Amendment of section 46.
 Amendment of section 46.
 Amendment of Section 108.
 Amendment of Schedule A, Part I.
 Amendment of Schedule A, Part II.
 Amendment of Schedule C.

BENGAL ACT 2 OF 1881

[THE BENGAL CESS (AMENDMENT No. 2) Act, 1881].1

(4th May, 1881.)

An Act to amend the Cess Act, 1880.

60. Act 9 of

Whereas it is expedient to amend the Cess Act, 1880, Preamble. passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows:-

1. In section 9 of the Cess Act, 1880, for the figures "111" the figures "109" shall be substituted.

2. In section 10, after the words "public works cess," the words "and all interest paid thereon" shall be inserted.

3. In section 13, after the words "in accordance with any Amendmen valuation" the words "or re-valuation" shall be inserted.

4. After section 40 the following section shall be inserted, Introduction namely:

40A. [Printed ante, p. 552.]

5. In section 42, clause (1), for the words "for the payment of the instalments," the following shall be substituted:— of section 42, clause (1). "under the provisions of section 3 of Act 11 of 1859, or of any similar Act at the time being in force for the payment of arrears.

6. In section 43, after the word "proportionately" the Amendment words "to the land-revenue" shall be inserted.

In clause 3 of the same section, for the words "the last preceding section" the words "this section" shall be substi-

tuted. To section 44 the following clause shall be added:-(5) [Printed ante, p. 557].

In section 45, after the word "twelve" the words "and Amendment a-half" shall be inserted.

9. In section 46, clause (3), for the words "preceding amendment of section" the words "preceding clause" shall be substituted.

10. In section 108, after the words "cesses under this Act," Amendment of section 108.

the words "not being interest levied in respect of public works cess," shall be inserted.

Amendment of section 9 of the Cess

Act, 1880. Amendmen

of section 18.

of new section

of section 48.

Addition to section 41.

⁴ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), 8ch. I.—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, 8ch. II.
Line Startive Parkins.—For Statement of Objects and Reasons see Calentta Gasette, 1881, Part TV, p. 8; and for Proceedings in Council. see ibid. 1881, Supplement, pp. 144, 148, 200 and 966.

^{206.} LÖPAL KYENY.—Since this Act merely makes textual amendments in Ben. Act 9 of 1880, and contains no "local extent" clause, its local extent must be taken to be the same as that of the Act of 1880, and so, p. 529.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1990 (1 of 1891), s. 4 (2), printed in Vol. I of this Code.

Frinted ante, page 529.

[Ben. Act 2 of 1861.]

(Secs. 11-13.)

Amendment of Schedule A, Part I. In the heading of column 3 of Part I, Schedule A, after the word "land," the words "if known," shall be inserted.

For the note which stands below Part I of the same Schedule the following note shall be substituted:—

[Printed ante, p. 608.]

Amendment of Schedule A, after the word "occupied," the words "if known" shall be added.

Amendment of Schedule C, for the word and figure "column 5" the word and figure "column 5" the word and figure "column 6" shall be substituted.

BENGAL ACT 3 OF 1881

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1881].

CONTENTS.

PREAMBLE.

SECTION.

- 1. Construction.
 (Commencement.) Repealed.
 2 (Repealed.)
 3. Amendment of sections 16 and 17 of Ben. Act 9 of 1879.
 4. Amendment of section 23.
 5. Amendment of section 48 and 49.
 6. Amendment of section 50.
 7. Amendment of section 55.
 8. Amendment of section 55.
 9. New section introduced between sections 58 and 59.
 10. New section substituted for repealed section 63.
 11. New section introduced after section 65.

BENGAL ACT 3 OF 1881

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1881].1

(25th May, 1881.)

An Act to amend the Court of Wards Act, 1879.

en. Act 9 of 879.

Whereas it is expedient to amend the Court of Wards Act. Press. 1879 *; It is enacted as follows:-

1. This Act shall be read and taken as part of the Court of construction. the Wards Act, 1879.

(Commencement). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

2. (Repeal). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

3. For sections 16 and 173 of Bengal Act 9 of 1879 the Amendment following section shall be substituted :--16. [Printed ante, p. 418.]

of sections 16 and 17 of Ben. Act 9 of 1879.

4. For section 23 of the same Act the following sections Amendment all he substituted namely: shall be substituted, namely :--

23, 23A. [Printed ante, pp. 419 and 420.]

5. The following sections shall be substituted for sections 48 and 49 of the same Act:-

48, 49. [Printed ante, pp. 426, 427.]

6. In section 50 of the same Act, for the word "person" the word "male" shall be substituted, and for the word and of section figures "section 49" the word and figures "section 48" shall be substituted.

7. In section 55 of the same Act, after the words "shall be American brought on behalf of any ward," the words "by a manager" of section 3. shall be inserted.

8. To section 58 of the same Act the following words shall Amendment of section 58. be added, namely :-

[Printed ante, p. 430.]

9. The following section shall be inserted between section 58 and section 59 of the same Act :-

58A. [Printed ante, p. 430.]

New section introduced between sections 58 and

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, Sch. II.

LESSISLATIVE PARKES—For Statement of Objects and Reasons, see Calcutta Gazette, 1881, Pt. IV, p. 9, and for Proceedings in Council, see ibid, Supplement, pp. 143, 189, 243, 255 and 286.

LOCAL EXTENT.—Since this Act is (see section 1) to be "read and taken as part of" Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which see foot-note on a 400. aute.

Act 9 of 1879, its local extent is the same as that of the chittagong Hill-tracts by the Chittagong Hill-tracts Eagolation, 1900 (1 of 1900), s. 4 (3), printed in Vol. I of this Code.

3 Printed ante, page 405

3 So much of Bengal Act 3 of 1881 as related to section 17 of the Court of Wards Act, 1879 (Ben. Act 9 of 1879) was repealed by section 3 of the Government Management of Private Estates Act, 1892 (10 of 1892), printed in General Acts, 1887-87, Ed. 1909, p. 866.

624 THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1881.

[Ben. Act 3 of 1881.]

(Secs. 10, 11.)

New section substituted for repealed section 63. [Printed ante, p. 452.]

New section 68.

New section 68.

10. Instead of the repealed section 63 of the same Act, the following section shall be read, namely:—
63. [Printed ante, p. 452.]

11. After section section for s

New section introduced after section 65.

shall be inserted, namely :—
65A. [Printed ante, p. 433.]

BENGAL ACT 5 OF 1881.

(THE CALCUTTA BURIAL BOARD'S ACT, 1881.)

CONTENTS.

PREAMBLE.

SECTION.

- 1. Short t-tle.

- Short tetle. (Connecement. Repealed.)
 Lieutenant-Governor may appoint a Burial Board.
 Constitution of Board.
 Chairman to be appointed by Lieutenant-Governor.
 Lieutenant-Governor may place Government burial grounds under one moare
 Board to receive and account for fees and grants.
 Board may appoint subordinate establishments.
 Power to make rules.
 Power to withdraw burial-grounds from control of Board.
 Provision for making over private cemeteries to charge of Board.

BENGAL ACT 5 OF 1881

(THE CALCUTTA BURIAL BOARD'S' ACT 1881). 2

(20th July, 1881.)

An Act to provide for the appointment of a Burial Board in. Calcutta and its Suburbs.

Whereas it is expedient to make better provision for the general management, regulation and control of the Government burial-grounds in the town of Calcutta and its suburbs; It is hereby enacted as follows:-

1. This Act may be called the Calcutta Burial Board's Act, Short tail 1881.

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act vide Act 10 of 1914, Sch. II.

2. The Lieutenant-Governor of Bengal may, by fication published in the Calcutta Gazette, appoint a Barial Board for the Town and Suburbs of Calcutta.

3. The Board shall be constituted as follows:-

the Chairman of the Calcutta Corporation;

the Health Officer of Calcutta;

an Officer of the Public Works Department, to be appointed by the Lieutenant-Governor of Bengal 3;

the Senior Chaplain of St. John's Church in Cal-

a clergyman of the Church of Rome, to be nominated by the Archbishop and Vicar Apostolic of Western Bengal;

a Protestant Nonconformist Minister, to be nominated by the Lieutenant-Governor of Bengal;3

not less than three and not more than six other members to be nominated by the Lieutenant-Governor of Bengal.

The Lieutenant-Governor of Bengal's may, from time to time, relieve any member of the Board nominated by him of his functions as such member.

¹ Sic. Read Boards.

^{*} Sic. Read BORTOL.

REMISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calontia Gasette, 1881,

Pt. IV, p. 6; and for Proceedings in Council, see ibid, Supplement, 1881, pp. 187, 205 and 261.

LOCAL EXTENT.—This Act extends only to the town and suburbs of Calcutta—see the title and

LOCAL EXTRY—This Act extends only to the town and sadding to Calcutte the this line
FUNTIER ENACTMENT.—As to the burial of Muhammadans and others, see the Calcutta Burial
Board's Act, 1889 (Bens Act 4 of 1889), post, p. 1997.

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa
and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D., item 1, in Vol. I, of this Code.

8 For notifications issued under section 2, see the Bengal Local Statutory Rules and Orders
1912, Vol. I, Pt. VI.

8 For an appointment made under this clause of section 3, see the Bengal Local Statutory Rules
and Orders, 1912, Vol. I, Pt. VI.

(Secs. 4-8.)

Chairman to se appointed by Lieute-sant-Government-Gove

4. The Chairman of the Board shall be nominated by the Lieutenant-Governor of Bengal.



The Lieutenant-Governor of Bengal may, by a notification to shed in the Calcutta Gazette, place under the control of the Board all or so many of the Government burial-grounds the cing military burial-grounds) situate in the Town or as of Calcutta as to him shall seem fit; and the general as gement, regulation and control of such burial-grounds the subject to the provisions of this Act, be thereupon vested in, and exercised by, the Board.

loard to sceive and count for ses and rants. The Board shall receive all fces and other moneys paid or then in respect of the use of such burial-grounds, and the error of monuments therein, and such grants as Government from time to time place at their disposal, and shall pay the out all charges and expenses incurred by them in the magement of the same, and shall submit accounts of such receipts and expenditure once in every year to the Lieutenant-Governor of Bengal, in such form and manner as the Lieutenagt-Governor may direct.

**7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

8. The Board may, with the sanction of the Lieutenant-Governor of Bengal, from time to time make such rules consistent with the purposes of this Act, as they may think necessary for any of the following purposes; that is to say:—

 (a) for regulating the times when the Board shall meet and the procedure to be observed at such meetings;

(b) for securing the preservation, repair or removal of existing monuments, and for regulating the dimensions and erection of new monuments, in any burialground under their charge;

(c) for regulating the mode of payment of fees, charges and other dues in respect of interments in any such burial-ground and for the expenditure of the

(d) for directing the manner in which and the persons by whom all works within any such burial-ground shall be executed; and

(e) for otherwise carrying out the purposes of this Act;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and A.sam Laws Act, 1913 (7 of 1912), s. 5, and Sch. D, item I, in Vol. I of this Code.

For a notification issued under section 5—see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

For rules made under section 8—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1861.

(Secs. 9, 10.)

and may from time to time, with the sanction aforesaid vary, alter or revoke any such rules so made.

All rules so made and variations, alterations or revocations of rules shall be published in the Calcutta Gazette.

9. The Lieutenant-Governor of Bengal may in the tion at any time withdraw any burial-ground from the court and management of the Board.

burial-ground, with the sanction of the Lieutenant-Governor of Bengal, to place the same under the management, regulation and control of the Board, on such terms and condition as the Lieutenant-Governor may approve: and such ground shall thereupon be managed in all respect a Government burial-ground subject to the provisions Act.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

a For an order made under section 10—see the Bengal Local Statutory Rules and Orders,
1912, Vol. I, Pt. VI.

BENGAL ACT 2 OF 1882

(THE BENGAL EMBANKMENT ACT. 1882).

CONTENTS.

PART I

PREAMBLE.

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SECTION.

- 1. Short title.
 - Local extent.
- (Commencement.) Repealed.
- 2. Repeal of former Acts.
- 3. Interpretation.
- 4. Public embankments, etc., to vest in Government.
- 5. Survey of lands hitherto used for obtaining earth for repairs.
- 6. Notification.

PART 11.

Powers of Collector and Procedure Therron; Embankment Committees.

- 7. Powers of Collector.
 - (1) Taking charge of embankment by Government.
 - (2) Removal of embankment or obstruction.
 - (3) Changing line of embankment.
 - (4) Improvement of drainage.
 - (5) Alteration of roads and construction of water-courses.
- 8. Form of notice.
- Proclamation to be published for thirty days. Hearing of objections to works. Order after inquiry.
- 10.
- 11.
- 12. Order of Commissioner.
- 13. Order of Board.
- 14. Order of Lieutenaut-Governor.
- 15. Special powers which may be conferred by Lieutenant-Governor.16. (Repealed).
- 17. Procedure of Collector.
 - Expenses of alteration or construction.
- 18. Application for new sluices, embankments or drainage.
- 19. Power to remove houses, etc.
- 20. Authority to take proceedings where lands likely to be affected by the works are in different districts.
- 21. Lieutenant-Governor may appoint Embankment Committee.
 22. Consultation of Committee by Collector.
- 23. Business of Committee.
- 24. Reference to Commissioner.

_Bon. Act 2

SECTION.

PART III.

PROCEDURE IN CASES OF IMMINENT DANGER TO LIFE OR PROPERTY.

- 25. Proceedings in emergencies.
- Restoration of embankments, etc.
- 27. Authority to take proceedings where lands in different districts.

PART IV.

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- 29. Power to Engineer to act in urgent cases.
- 30. Power to make repairs.
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- Power to enter and survey land, etc.

Power to mark out line.

Power to clear land.

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- Payment for damage. 34. Power to take earth from lands.
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- Compensation for consequential damage.
- 39. Limitation to claim for compensation.
- Procedure for determining compensation.
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PART VI.

COST OF WORKS, PROCEEDINGS, ETC.

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- 42. Embankments in Schedule D.
- 43. Exclusion from Schedule 1).
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- 41. Contribution of public money towards the maintenance of the embankments in the pargamas entered in Schedule E to be continued.

 45. If such embankments are declared to be public. Collector to keep a separate
- account.

of 1888.

SECTION.

- 46. Contribution may be discontinued if it be found unnecessary for the public interest to maintain the embankments.
- 47. Estimates and specifications to be prepared.
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- Apportionment amongst zamindars. 58.
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- Provisions as to lands held without payment of rent not being estates.

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 64. Period included in the last section what to include.
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- 66. Mode of apportionment.
- Payment of sum apportioned,
- 68. Final order of apportionment.

3 .- Recovery thereof.

- 69. Publication of final order of apportionment.
- Recovery of sums apportioned.
- 71. Effect of opening separate account under Act 11 of 1859 or Ben. Act 7 of
- 72. Liability of estate for sum apportioned.
- 73. Amount apportioned may be raised by leasing or mortgaging estate.
- 74. Recovery by zamindars and tenure-holders.

PART VII.

PENALTIES.

- 75. Penalty for obstructing persons in exercise of powers conferred by Act.
 76. Penalty for unauthorized interference with embankments or drainage.
 Penalty for unauthorized interference with embankments or drainage in prohibited tract.
- Penalty for abatement of such acts. 77. Penaltics for injuring embankments, etc.
- 78. Penalties for diverting rivers or permitting cattle to graze on embankments,
- 79. Obstructions to be removed and damage repaired.

THE BENGAL EMBANEMENT ACT, 1882.

[Ben. Act 2 of 1982.]

PART VIII.

MISCELLANEOUS.

SECTION.

- 80. Mode of publishing proclamation and issuing notices.

- 81. Service of special notices.
 82. Powers of Collector and Commissioner on inquiry and appeal.
 83. No proceedings to be impeached for mistake or want of form.
 84. Appeal from orders.
 85. General control of Commissioner and Government.

- 86.
- 87.
- Orders to be final.

 Disposal of lands no longer required for embankments.

 Collector may delegate any of his powers to a Deputy Collector
- 89. Jurisdiction.
- 90. Power to make, alter and cancel rules. Publication of rules.
- 91. Saving of operation of certain Acts.

PART IX.

SPECIAL PROVISIONS FOR THE PROVINCE OF ORISSA

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92 to 94. (Omitted).

SCHEDULE I. SCHEDULE II. SCHEDULE III.

BENGAL ACT 2 OF 1882

(THE BENGAL EMBANKMENT ACT, 1882)1.

(21st June, 1882.)

An Act to amend the law relating to Embankments and Water-courses.

Whereas it is expedient to make better provision for the Preamble. construction, maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal'; It is enacted as follows:-

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Embankment Act, Short title.

It extends to the whole of the territories subject to the Local extent. Lieutenant-Governor of Bengal', except the Sundarbans, as defined under the provisions of clause 2, section 13, Regulation 3 of 1828 and the province of Orissa, save as otherwise expressly provided in Part IX].

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. II.

4 Bengal Act 6 of 1873 (to amend Beneal of 2. the law relating to embankments and water-courses), with the former Acts. exception of the sections set out and schedules specified in Schedule I to this Act annexed, shall be repealed.

The references in the said sections, which are mentioned in Schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule.

¹ Ingelstative Papers.—For Statement of Objects and Reasons, see Calcutta Gazette, 1882, Pt. IV, page 12; and for Proceedings in Council, see ibid. Supplement, pages 46, 91, 303 and 529.

LOOAL EXPENT.—This Act extends to the whole of the present Presidency of Fort William in Bengal except the Sundarhans, see s. 1; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code. FURTHER ENAUTAENTS.—For another enactment relating to embankments (except in the Sundarbans, see the Bengal Embankment Act, 1876 (Ben. Act 6 of 1878), snite, p. 285.

For enactments relating to embankments in the Sundarbans, see—

The Bengal Embankment Act, 1866 (Ben. Act 7 of 1865), and, p. 127.

This includes the present Presidency of Fort William in Bengal and other territory.

Clause 2 of section 13 of Bengal Regulation 8 of 1828 has been repealed by the Sundarbans Act, 1906 (Ben. Act 1 of 1906), in Vol. III of this Code.

Formal words repealed by the Repealing and Amending Act, 1908 (1 of 1968), are omitted.

That Act is now known as the Amending Act, 1903—side Act 10 of 1914, Sch III.

The Bengal Embankment Act, 1878. It is printed anse, p. 286.

[Bon: Act 2

(Part I.—Preliminary.—Sec. 3.)

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act 6 of 18731.

Interpreta tion.

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears:

"Collector."

"Collector" means any Revenue-officer in independent charge of a district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act:

" District."

"district" means the local area throughout which a Collector is authorized to exercise his ordinary functions:

" Embankment.

"embankment" includes-

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon, any land: every sluice, spur, groyne, training-wall or other work annexed to, or portion of, any such embankment;

every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers. tides, waves or waters;

and also all buildings intended for purposes of inspection and supervision:

" Estate."

"estate" means any land or share in land included under one entry on the general register of revenue-paying lands and of revenue-free land prepared and maintained by the Collector of a district under the Land Registration Act, 1876,4 or any Ben Act 7 of similar law for the time being in force:

" Land."

"land" includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth:

"Public e hankment."

"public embankment" means an embankment maintained by the officers of Government:

" Public

"public water-course" means a water-course under the charge of the officers of Government:

" Section."

"Tenure."

"section" means a section of this Act:
"tenure" includes all interests in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined:

"the Engineer" means the Engineer in charge of the public embankments of the district, or any part thereof, or any Engineer specially appointed by the Lieutenant-Governor of

¹ The Bengal Embankment Act, 1873. It is printed aste, p. 250.

⁸ For an appointment made under this clause of section 3, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁸ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ Printed casts, p. 36.

Printed ents. p. 345.
For lists of appointments made under this clause of section 8 for Bengal as constituted on the bits March, 1912, secthe Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

of 1888.]

(Part I,—Preliminary.—Secs. 4. 5.)

Bengal to perform the functions of an Engineer under this Act in respect of any tract of country or of any works:

"water-course" includes a line of drainage, weir, culvert, "Waterpipe or other channel, whether natural or artificial, for the passage of water:

"zamindar" means all or any of the holders of an estate; "Zamindar" and, where two or more zamindars are jointly holders thereof, they shall be jointly and severally liable under this

Explanation.—For the purposes of Part VI the Government shall be deemed to be

- (a) of every estate of which the zamindari title is not vested elsewhere than in the Government;
- (b) of every extate which is let in farm or held khas under the provisions of section 43 of Regulation 8 of 1793 in consequence of the proprietor refusing or omitting to engage for the settlement thereof.
- 4. Every public embankment and every public water- Public course, and all land, earth, pathways, gates, bermes and hedges ombankments, belonging to, or forming part of, or standing on, any such Government. embankment, or water-course and every embanked tow-path maintained by Government, shall vest in the Government.

The embankments mentioned in Schedule D' annexed to Bengal Act 6 of 1873 and every embankment and water-course which may be included in such Schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government; and all other public embankments and water-courses shall be held by Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of section 87; and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and watercourses respectively.

5. All plots or parcels of land which, before the commence- survey of ment of this Act, have been used for the purpose of obtaining lands hitherearth or other materials for the repair of any public embank-obtaining ment, water-course or embanked tow-path as aforesaid, or earth for which by agreement have been substituted for such lands, shall repairs. be deemed to be at the disposal of the Government for such purpose, without payment of compensation for the use or

removal of such earth or other materials.

The Collecter may cause all such plots or parcels to be ascertained, surveyed and demarcated.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orleas and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.
 The Bengal Decembal Settlement Regulation, 1798. It is printed in Vol. I of this Code.
 Printed onte, p. 288.

(Part VI.-Cost of Works, Proceedings, etc.-Secs. 44-46.)

this section, the Lieutenant-Governor1 may direct2 that the same shall be no longer included in the said Schedule:

Provided that the Lieutenant-Governor may restore the same to the said Schedule if on any subsequent inquiry similarly conducted it shall appear to the Lieutenant-Governor1 that it is necessary so to do.

Addition to Schedule D.

The Lieutenant-Governor may, at any time after the passing of this Act, by a notification published in the Calcutta Gazette, direct' that any embankment not mentioned in the said Schedule Do or any water-course, be included therein and the provisions of this section shall apply to such embankment or water-course.

44. In accordance with the custom heretofore in force in respect of the parganas entered in Schedule E4 annexed to Bengal Act 6 of 1873, the Government shall continue to contribute annually the sum noted therein for each paryana respectively towards the maintenance of the embankments thereof.

45. If the embankments maintained in either of the said parganas shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such parganus, in which the aforesaid sum shall be credited at the commencement of each financial year.

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pargana.

46. If at any time on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in either of the said parganas, the Lieutenant-Governor may direct that such contribution shall cease in respect of such pargana:

Provided that such contribution shall again be made in accordance with the provisions bereinbefore contained, if it shall appear to the Lieutenant-Governor on the report of an inquiry similarly conducted, that the maintenance of any embankment in such pargana has again become necessary for the public interest.

Contribution may be dis-continued if it be found or the public maintain the

embankments.

Contribution of public money to-wards the

maintenanco

ban**kmen**ts in the parganas entered in Schedule E to

be continued. If such em-

bankments

are declare to be public, Collector to

keep a sepa-

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bfhar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, Sch. D, items 1 and 2, in Vol. I of this Code.

2 For lists of orders made under s. 45 for Bengal as constituted on the Sist March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI. The said onders are noted in Sch. D as pitted on pages 385 to 370 autc.

3 Printed case, page 286.

4 Printed case, page 286.

4 Printed case, page 286.

5 Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1908), are

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 47-51.)

47. Subject to the provisions of Part III of this Act, Estimates an pecifications of the Collector or the Engineer undertakes, under the to be preparprovisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, speciscations and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Lieutenant-Governor shall direct, shall be prepared by the Engineer.

48. Whenever it appears that the actual expenses to be proparation neutred in respect of any work will exceed by one-tenth any estimates and estimates of such work which may have been transmitted to specifications the office of the Collector under the next succeeding section, the Engineer shall forthwith prepare further estimates, and,

f necessary, further specifications.

49. Copies of all specifications and estimates prepared Estimates and specifications inder the two last preceding sections shall be transmitted to to be open to the office of the Collector, together with vernacular translations inspection. thereof, or such abstracts thereof as the Lieutenant-Governor may from time to time direct, and may be examined by any person interested in such works and repairs.

50. A general notice of the receipt of any such specifica- Notice of tions and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all specifications estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one, month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

51. The accounts of the actual expense incurred in executrepairs, or of any portion of the actual of accounts
and expenses with which the Collector may determine to deal Engineers separately under this and the following sections, shall be pre- of expenses.

pared as soon as possible after the completion thereof.

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected.

^{*}Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items I and 2, in Vol. I of this Code.

(Part VI.-Cost of Works, Proceedings, etc.-Secs. 52, 53.)

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58.

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the zamindars of such estates and villages shall be liable to pay the said amount.

Copies of the said accounts, certificates and statements shall be deposited in the office of the Collector, and may there be

examined by any person interested.

52. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given.

Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground. either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such objection, and pass orders thereon.

Total sum payable.

Notices and

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Part II or Part V of this Act, or under sections 26 to 29 1 of Bengal Act 6 of 1873, as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, the estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next Chapter contained.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. §4-57.)

Interest may be charged upon any sum paid as compensa- Interest. tion from the date of payment thereof at five per centum, or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine.

Liability for the Costs, and apportionment thereof.

54. The total sum aforesaid, save so far as is otherwise Partiel liable provided in this Act, shall be paid to the Collector by the to pay. zamindars of the estates in which are situated the lands benefited or protected by the repairs or works executed:

Provided that the sum standing to the credit of a pargana Provise in Schedule E to Bengal Act 6 of 1873 annexed in the account persona in persona in kept by the Collector, at the time when the total amount pay- Schedule B. able is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pargana, and that the zamindars of the estates situated in such pargana shall be charged only with the balance of the amount (if any) . which may remain payable.

55. Every zamindar, who is liable under the last preced-row under ing section for the payment of the whole or a portion of such tenants. total sum, shall be entitled to recover from the holder of every tenure held immediately under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59.

And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own, and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

56. So soon as the total sum payable as aforesaid has been given before ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned.

Such notices shall make it known that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamindars and tenure-holders the said total sum, with interest and the costs of apportionment.

57. In any such inquiry the Collector shall take down in Rames of writing the names of all persons who may claim, or who may holders.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orlssa and Assam Laws Act, 1912 (7 of 1912), a, 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁸ Printed sate, page 270.

(Part VI.-Cost of Works, Proceedings, etc.-Secs. 58, 59.)

be alleged by any party interested to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

ment amongst

- 58. At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the zamindar thereof with the total amount payable; and if there be two or more estates, he shall apportion the same amongst the zamindars thereof, either—
 - (a) rateably in proportion to the respective benefits derived by such estates from such works or repairs; or
 - (b) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or
 - (c) with the sanction of the Local Government, in proportion to the amount of revenue payable for such estates respectively:

[Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the zamindars of all the estates situated in the district of Saran, in proportion to the amount of revenue respect-

ively payable for such estates:

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on account of any year in respect of the embankments on the left bank of the river Gandak in the district of Muzuffarpur, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments; that is to say, chargeable to the zamindars of all the estates situated in the following parganas, viz., Rati, Gadasand, Hajipur, Bhatsala, Garjaol, Nae, Saresa and Balagach; in proportion to the amounts of land-revenue payable for such estates respectively, but so that the amount out of any total, sum apportioned in respect of each estate in Rati, Gadasand: and Hajipur, shall bear such a proportion to the land-revenue payable for such estate as shall be twice as great as the proportion which the amount apportioned in respect of each estate in the remaining parganas shall bear to the land-revenue payable for such estate.

Apportionment amongst 59. The Collector shall, in like manner, [except in respect of the said embankments on the right bank and left bank of

(Part VI.-Cost of Works, Proceedings, etc.-Secs. 60-63.)

the river Gandak,] charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the proportion of benefit so received for of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

60. All lands held without payment of rent, not being Provision estates, may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included; and if they are not included with- outsides, in the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

61. The amount charged to or apportioned on any estate Amount or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct 2: Provided that no instalment instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest shall be charged on the unpaid portion of the said Interest. amount from the date of apportionment until payment thereof at five per centum or at such rate, not exceeding five per centum per annum as the Lieutenant-Governor may from time to time determine.

62. If after the apportionment of the expenses of any Apportion works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

63. Instead of the procedure prescribed above for charging Alternative upon, and recovering from, zamindars, the expenses actually power of incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, for a series the Lieutenant-Governor may by an order to be published in years. the Calcutta Gazette, direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which he may think fit;

and may by a subsequent order a fix the total sum payable during such number of years by the zamindars of the estates benefited by such repairs, maintenance and works:

¹ Now the Governor in Council of Fort William in Bengal—ses the Bengal, Bihar and Orista and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

§ For lists of orders made under paragraph 1 of section 61 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ For a list of orders made under this paragraph of section 85 for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part V1.—Cost of Works, Proceedings, etc.—Secs. 64-66.)

Provided that no order fixing such total sum shall be passed by the Lieutenant-Governor¹ until three months after the amount of such estimate shall have been published in the Calcutta Gazette, and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Lieutenant-Governor¹ for his consideration.

Period in the last section, what to include.

- **64.** The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act:
- Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such orders.

Works in respect of which such estimate may be made.

- **65.** The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—
 - (a) of any protective works which may be specified in such orders;
 - (b) of all the public embankments and water-courses in any district; or
 - (c) of all the public embankments and water-courses within any tract of country specified in the order of the Lieutenant-Governor¹ and any such tract may contain the whole or portions of any one or more districts;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of cost of new Whenever the Lieutenant-Governor shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the *zamindars* to the Collector under the provisions of this Act, in addition to any total sum fixed under section 63 or section 64 as payable by them.

con publication of any order of the Lieutenant Governor under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the camindars and except in respect of the embankments on the right and left

Mode of apportionment.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orlan and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 67-71.)

banks of the river Gandak as provided in section 58] among tenure-holders who are liable to pay the same, as above

67. The sum so apportioned in respect of any estate or Payment tenure on account of any such period as is mentioned in sec- apportioned. tion 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five per centum, or at such rate, not exceeding five per centum per annum, as the Lieutenant-Governor may from time to time determine, from the end of the year in which it is payable.

68. On the completion of any charge or apportionment under Final order of this Act, the Collector shall make an order specifying the apportionment. estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

3.—Recovery thereof.

69. As soon as may be after any final order of apportionment Publication of is made, as provided in the section last preceding, the Collector annuation shall cause copy of such order to be published with a general ment. notice stating that the amounts apportioned on the zamindars in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the zamindars or superior tenure-holders. Instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be serv d in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or

apportioned. 70. If any such sum payable to the Collector, or any Recovery instalment thereof, be not pursuant to the said order, apportioned paid, the same with interest may be recovered as arrears of a demand under the provisions of the Public Demands Ben. Act 7 of Recovery Act, 1880, or any similar Act 3 for the time being in force.

for the time being in force for the regulation of the opening 1859 or and maintaining of such separate accounts, he shall be entitled, 1876. in regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by

71. When a recorded sharer of a joint revenue-paying Effect of one estate has opened a separate account under Act 11 of 1859, or ing separate under section 70 of Bengal Act 7 of 1876 or any similar law act 11 of 1876 or any similar law act 11 of 1876 or any similar law act 11 of 1876 or 1889.

Now the Governor in Council of Fort William in Bengst—see the Bengal, Bihar and Ogissa and ssam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. I of this Code
 See now the Bengal Pablic Demands Recovery Act, 1918 (Ben. Act 8 of 1918 printed in Ol. III of this Code). See also section 72 on next page.
 The Bengal Land-revenus Bales Act, 1858. It is printed in Vol. I of this Code.
 The Land Registration Act, 1876. It is printed asse, p. 846.



(Part VI.—Cost of Works, Proceedings, etc.—Secs. 72-74.)

him under the said Act 11 of 1859,1 and Bengal Act 7 of 1876,3 respectively, in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is, by this Act, required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act 9 of 1880 in respect of the amount of

cesses payable by him.

Liability of estate for sum

Amount av portioned m

leasing or mortgaging

72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act 11 of 1859,1 and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

73. If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

(a) by mortgaging the whole or any part of such estate;

(b) by letting in farm or managing by himself or another the whole or any part of such estate;

(c) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document neces-

sary to carry into effect the said purposes.

74. Every zamindar or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of patni tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation 8 of 1819, as amended by Bengal Act 8 of 1865, or by the provisions of any similar Act for the time being in force:

^{**} The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

* The Land Registration Act, 1876: It is printed ante, p. 846.

* The Cess Act, 1880. It is printed eggs, p. 529.

* As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1915 (B-n. Act 2 of 1913).

* The Bengal Patni Taluks Regulation, 1819. It is printed in Vol. I of this Code.

The Bengal Bant Recovery (Under-tenures) Act, 1865. It is printed ante, p. 47.



(Part VII.—Penalties.—Secs. 75-77.)

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

PART VII.

PENALTIES.

75. Whoever wilfully obstructs any person duly authoriz- Penalty for ed under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any exercise of of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of by Act. the Indian Penal Code,1 be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.

76. (a) Every person who, in any of the territories to renally for which this Act extends, without the previous permission of the unauthor interference Collector, shall erect, or cause or wilfully permit to be erected, with embani any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public

embankment or any public water-course; (b) every person who, within the limits of the tract Penalty for included in any prohibitory notification under section 6, with- unauthor interferen out the previous permission of the Collector, shall erect, or with embank out the previous permission of the contestor, must be transfer to be erected, any new embankment, drainage in drainage in probabiled or shall add to any existing embankment, or shall obstruct or probit divert, or cause or wilfully permit to be obstructed or diverted. any water-course; and

(c) every person who shall abet any such act as is mentioned Penalty for in clauses (a) and (b),

shall be liable, on conviction, to a fine not exceeding five hundred rupees or in default of payment to imprisonment of either description for a period not exceeding six months.

77. No person shall, without due authority, cut through, Penalties for or attempt to cut through, any public embankment, or destroy, embankment or attempt to destroy, any such embankment, or open or shut, **c. or obstruct any sluice in any such embankment, or any public water-course; and every person who shall commit any breach of the provisions of this section shall in case the act shall not . amount to mischief within the meaning of the Indian Benal Code, be liable to imprisonment of either description for a

4å of 1860.

45 of 1860.

(Part VII.—Penalties.—Part VIII.—Miscellaneous.— Secs.—78-80.)

term not exceeding one month, or to a fine not exceeding two hundred rupees.

Penalties for diverting rivers or permitting cattle to ambank ments

78. Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments,

or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise after the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment;

and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment.

shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

Obstructions to be removed and damage

79. Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such emoval or repair shall be levied from such person in addition o any other penalty in the manner provided in section 307 of 10 of 1872. he Code of Criminal Procedure.1

PART VIII.

MISCELLANEOUS.

80. Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub-divisional Officer and Munsif within his jurisdiction, and at every police-station within the limits of which any lands affected by

¹ Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Griminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to sections 886,887 and 889 of the latter Act—seq.s. § (1) thereof, in General Acts, 1898-1993. Ed. 1999, p. 40.

10F 1592.

(Part VIII.—Miscellaneous.—Secs. 81-83.)

such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such hats, bazars, towns, villages or other public places (as the Collector may direct; and also by giving notice by beat of drum at such public places) that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector.

81. Every special notice or order by this Act required to Service of

be served shall be served,-

- (1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or
- (2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or
- (3) by posting a copy of the notice or order at the málcutcherry of the estate, village or tenure to which the same relates; or, if no such mál-cutcherry be found, on some conspicuous place on the said estate, village or tenure; or
- (4) if the person on whom the notice or order is to be served is a zamindar, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such zamindar.

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

82. In any inquiry or appeal held under this Act, the Powers of Collector and the Commissioner shall respectively have the cand same powers as those conferred on Courts by the Code of Civil Commissioner shall respectively have the conferred on Courts by the Code of Civil Commissioner shall respect to the code of Civil Civil Civil Ci Procedure of summoning and examining witnesses and com-

pelling the production of documents.

14 of 1882.

83. No proceedings under this Act shall be impeached or no proceed affected by reason of any mistake in the name of any person impeached thereby rendered liable to pay any sum of money, or in the formistal description of any estate or tenure or land in respect of which form he is rendered liable to pay, provided the directions of this

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1998 (6 of 1908), and this reference abould now be taken to be made to the latter Code—see s. 168 thereof, in General Acts, 1994-99, Ed. 1909, p. 184.

(Part VIII.-Miscellaneous.-Secs. 84-87.)

Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from orders.

84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11.50, 52 or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue; but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

General control of Commissioner and Government. 85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue¹ and of the Government.

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

Orders to be

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Disposal of lands no longer required for 87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such

price as he can obtain for the same.

. All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the zamindars and tenure-holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable.

^{*}As to the present constitution and powers of the Board of Revenue, see no w the Bengal Board of Revenue Act, 1918 (Sen. Act 2 of 1918).

(Part VIII.—Miscellaneous.—Secs. 88-91.)

88. A Collector may delegate any of his powers under Collector may this Act to a Deputy Collector; but from any order passed by delegate any of his powers a Deputy Collector to whom powers have been so delegated an to Deputy Collector. appeal shall lie to the Collector if presented within thirty days of the date of the order.

Every such delegation of power shall be reported to the

Commissioner of the Division.

89. All offences created by this Act shall be inquired into Jurisdiction. and tried by a Magistrate of the first or second class.

90. The Lieutenant-Governor may from time to time make Power to rules 2, consistent with the provisions of this Act, to regulate make, alter the following matters:

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the business of Embankment Committees:

(c) the cases in which, the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(d) the person by whom, the time, place or manner at or in which anything for the doing of which provision is

made in this Act, shall be done;

(e) the amount of any charge made under this Act; and (f) generally to carry out the provisions of this Act.

The Licutenant-Governor may from time to time alter or

cancel any rules so made.

Such rules, alterations and cancelment shall be published in Publication the Calcutta Gazette, and shall thereupon have the force of of rales.

law: Provided that no rules shall be made by the Lieutenant-Governor1 under the powers conferred on him by this section until a draft of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor1 may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

91. Nothing in this Act shall apply to any embankment, Saving of land or watercourse which is under the operation of any of the certain Acts following Acts:-

Ben. Act 6 of 1880.

the Bengal Drainage Act, 1880, the Bengal Irrigation Act, 1876,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisaa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.

8 For a list of rules made under section 90 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

8 Frinted ants, page 318.

|Ben. Act #

(Part IX.—Special Provisions for the Province of Orissa.— Secs. 92-94.—Schedules I, II.)

Bengal Act 5 of 1864¹ (an Act to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal.)

PART IX.

SPECIAL PROVISIONS FOR THE PROVINCE OF ORISSA.

92 to 94. [Omitted as being inapplicable to the Presidency of Fort William in Bengal.]

SCHEDULE I

(Referred to in section 2).

(Portions of Bengal Act 6 of 1873 which are not repealed.)

12. } [Printed ante, p. 235.]
21. Proviso. [Printed ante, p. 235.]
26. 27. 28. } [Printed ante, p. 236.]
29. }

Schedules B, C, D and E.

SCHEDULE II

(Referred to in section 2).

Section of Bengal Act 6 of 1873 in which the refer- ence is made.		The reference as it stands.	To what portion of the present Act the reference is to be read to apply.	
Section 12	•••	•••	To "the last preceding section."	Section 25.
Section 12	•••	•••	To section 18	Section 30.
Section 12	***	•••	To section 25	Section 37.
Section 21	•••	64.	To "such proceedings"	Section 19.
Section 26	***	***	To Part III	Part III,
Section 26	***	***	To "this Part"	Part V.

The Canala Act, 1864. It is printed auto, p. 21.
 Printed auto, pages 386 to 270.

of 1888.)

(Schedule III.)

SCHEDULE HI

(Referred to in section 8).

Notice is hereby given, as required by section 8, Bengal Act 2 of 1882, to all persons interested, that it appears to the Collector that the following work should be done; that is to say [here state the nature of the work and the purpose for which it is to be undertaken.]* For the execution of this work the undermentioned land will be required to be taken up:—

1	2	3
Pargana in which land is situated	Village in which land is situated.	Area of land.

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person, who is allowed to take copies thereof.

†The total probable cost of such work will be the sum of Rs. and the rate per acre of the area benefited or

protected by the said work is estimated at Rs.

The following estates and villages will probably be affected by the work proposed (here set out a list of the estates and villages).

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the day of

y of The

day of

A. B.,

Collector of

The words in italics and the tabular form to be omitted if no land is to be acquired.

† These words may be omitted, unless it is proposed to recover the cost of the work from the *amindars* and tenure-holders.

BENGAL ACT 3 OF 1883

(THE BENGAL TRAMWAYS ACT, 1883).

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 - (Commencement.) Repealed.
- 2. Interpretation.

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- 3. By whom orders authorizing the construction of transways may be obtained.
 - When applications for authority to construct trainways may be made. Documents to be forwarded with application.
- 5. Local Government to determine on application and objection. Local Government may make and publish order. Form and contents of order.
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- Power to authorize joint work.
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- 9. Promoters' powers to cease at expiration of prescribed time.
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[Ben. Act 2 of 1863.]

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41. Local authority to have right of purchasing tramways after twenty-one years.

BENGAL ACT 3 OF 1883

(THE BENGAL TRAMWAYS ACT, 1883).1

(2nd May, 1883.)

An Act to authorize the making and to regulate the working of Tramways in Bengal.

Whereas it is expedient to facilitate the construction and Preamble. regulate the working of tramways within the territories subject to the Government of the Lieutenant-Governor of Bengal; [t is enacted as follows:-

1. This Act may be cited for all purposes as the Bengal Short title. Tramways Act, 1883.

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. II.

2. For the purposes of this Act the terms hereinafter Interpretamentioned shall, unless there be something repugnant in the tion. subject or context, have the meanings hereinafter assigned to

the term "local authority" shall mean-

(1) bodies of persons for the time being appointed or "Local authority." elected to conduct the affairs of any municipality under Bengal Act 5 of 1876 or other law for the time being in force for the purpose of regulating municipalities in Bengal;

(2) any Board. Committee, Department or other body or person in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:

the term "area" in relation to a local authority shall mean "Area." the area within the jurisdiction of such local authority;

the term "municipality" shall mean any place in which "Municipal Bengal Act 5 of 1876 or any other law for the time being in wy. respect of Bengal municipalities is in force;

¹ LEGIBLATIVE PAPERS.—For Statement of Objects and Ressons, see Calcutta Gazette, 1888 Pt. IV, p. 46; for Report of Select Committee, see ibid, p. 61; and for Proceedings in Council, see ibid, Supplement, pp. 42, 47, 229 and 528.

LOCAL EXTERT.—This Act was passed for the whole of the former Province of Bengal—see the

preamble.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Esquilation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1, of this Code.

Bynilar Acrs.—The Indian Tram ways Act, 1896 (11 of 1886—printed in General Acts, 1879-86, Ed. 1909, p. 583), which runs on lines similar to those of the present Act, does not extend to Bengal. The Governor in Council is, however, empowered by s. 2 of the Act to extend it to Bengal or any part thereof. See also the Calcutta Tram ways Act, 1880 (Ben. Act 1 of 1880), sake, p. 489.

This includes the present Presidency of Fort William in Bengal and other territory.

Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1844), nost, p. 798.

Act 8 of 1884), post, p. 709.

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Secs. 3, 4.)

" Road."

"Tram way."

the term "road" shall mean any carriage way, being a public thoroughfare, and the carriage way of any bridge forming part or leading to the same;

the term "tramway" shall mean a tramway constructed

under this Act. 1

PART I.

ORDERS BY THE LOCAL GOVERNMENT AUTHORIZING THE CONSTRUCTION OF TRAMWAYS.

By whom orders authorizing the construction of tram ways may be obtained.

When applications for authority

to construct

may be made.

tram ways

3. An order made by the Local Government authorizing the construction of any tramways in any municipality or area may be obtained by—

1st, the local authority of such municipality or area;2nd, any person, persons, corporation or company with the consent of such local authority.

And any such local authority, person, persons, corporation or company shall be deemed to be "promoters" of a tramway, and are in this Act referred to as "the promoters'

and are in this Act referred to as "the promoters."

Where the local authority consists of a body of persons, Board or Committee, no application shall be made to the Local Government for the purpose of authorizing the construction of tramways in a municipality or area until a resolution, approving of the intention to make such application, shall be passed at a special meeting of the members constituting the local authority in such municipality or area.

Such special meeting shall not be held unless a month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given, and such notice shall require that all objections to the proposed tramways shall be submitted for the consideration of the local authority before the date fixed

for the special meeting.

Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution.

4. At the time of making an application for such order the promoters shall also forward to the Local Government—

1st, a memorial signed by the promoters descriptive of the undertaking;

3nd, a copy of the proceedings and resolution of the special meeting held under the provisions of section 3;

Documents to be forwarded with applica-

¹ For an explanation of the term " promotors," see a. 8, on this page.

67 1882. T

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Secs. 5-7.)

3rd, a copy of the provisional agreement made between the promoters and local authority, where the promoters are not themselves the local authority;

4th, an estimate of the proposed works, signed by the persons making the same;

5th, all necessary maps, plans, sections and drawings of the proposed work.

5. The Local Government shall consider the application, Local Government to determine to application, if it think fit, direct an inquiry as to the propriety of mine on approceeding upon such application, and it shall consider any pleaton and objection thereto that may be filed on or before such day as it. objection thereto that may be filed on or before such day as it may from time to time appoint.

. Where it appears to the Local Government expedient and Local Govern proper that the application should be granted, with or without make and addition or modification, or subject or not to any restriction or publish order condition, the Local Government may settle and make an order1 accordingly, and such order shall be published in the Calcutta Gazette.

Every such order shall empower the promoters therein Form and specified to make the trainway upon the gauge and in manner order. therein described, and shall contain such provisions, fix such maximum rates of fare and prescribe such penalties for default as (subject to the provisions of this Act) the Local Government, according to the nature of the application and the facts and circumstances of each case, thinks fit.

Where the promoters are not the local authority, the order shall set forth the agreement made between the promoters and the local authority, and one of the provisions of such agreement shall settle the manner in which the value of the tramway shall be calculated in the event of its purchase by the local authority, under sections 39, 40 or 41.

6. The Local Government, on the application of any Power to re promoters empowered by an order to construct a tramway, may voke, amend from time to time revoke, amend or vary such order by a further order:

Provided that, whenever the promoters are not the local authority, the Local Government shall, before passing such order, call upon the local authority to state any objection it may have to such application.

7. Subject to, and in accordance with, the provisions of Power to an thorize joint this Act, the Local Government may, on a joint application, or work. on two or more separate applications, settle and make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts of a

¹ For a list of orders made under section 5 for Bengal as constituted on the 51st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.
³ For lists of orders made under section 6 for Bengal as constituted on the 51st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Secs. 8-12.)

tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid; and the form of the order may be adapted according to the circumstances of the case.

Local Government may in certain cases dispense with consent of local author-

8. Where it is proposed to lay down a trainway in two or more areas, and any local authority having jurisdiction in any of such areas does not consent thereto, the Local Government may nevertheless make an order authorizing the construction of such tramway, if it is satisfied after inquiry that two-thirds of the length of such tramway is proposed to be laid in an area or areas the local authority of which area or areas does consent thereto.

9. If the promoters empowered by any order under this Act to make a trumway do not, within the period prescribed in such order, complete the tramway and open it for public

if the works, are not substantially commenced within the latest date prescribed in such order for their commencement,

if the works, having been commenced, are suspended without a reason sufficient, in the opinion of the Local Government, to warrant such suspension;

the powers give 1 by the order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised to the extent and in the manner specified in such order.

A notice inserted by the Local Government in the Calcutta Gazette to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement or suspension.

10. When the local authority of any area are the promoters of any tramway, the expenses incurred by them in constructing and working such tramway under the provisions of this Act, including the expenses preparatory thereto, may be paid out of the funds under the control of such local authority.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use

of roads as may be agreed upon.

12. Any moneys received, by any local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control such local authority may be applied.

Promoters powers to

Payment of

when local authority are not promoters. Application of rent or tolis.

- (Part I.—Orders by the Local Government authorising the construction of Tramways.—Part II.—Construction of Tramways.—Šecs. 13-15.)
- 13. The Local Government may from time to time make, Power to and when made may revise, modify, annul, add to or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution.

PART 11.

CONSTRUCTION OF TRAMWAYS.

14. Every tramway shall be constructed and maintained Form in on such gauge and in such manner as may be specified in the transways order of the Local Government empowering the construction are to be of such tramway, and, before the work of construction is and main. begun, the maps, drawings and specification showing the tained. proposed construction of such tramway shall be submitted to the local authority and be approved by it, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by such local authority.

15. The promoters may from time to time, for the purpose Power to of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the roads upon which the construction and maintenance of such tramway has been authorized by the order of the Local Government in that behalf, and therein lay sleepers and rails, and repair, renew, alter or remove the same; and may, for the purposes aforesaid, do in and on such roads all other acts which shall from time to time be necessary for constructing and maintaining their tramways:

Provided that, when the powers granted under this section shall be exercised by the promoters who are not the local authority, such powers shall be exercised subject to the following regulations :-

- 1st.—They shall give to the local authority notice in writing of their intention to open or break up any such road, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least seven days before the commencement of the work.
- 2nd.—They shall not open or break up or alter the level of any such road, except under the superintendence and to the reasonable satisfaction of the local authority, for which superintendence the promoters shall pay all reasonable expenses, unless the fel

(Part II.—Construction of Tramways.—Secs. 16, 17.)

authority neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the local authority in writing, open or break up at any one time a greater length than a quarter of a mile in any one length, and shall leave an interval of at least a quarter of a mile between any two such places at which they may open or break up such road.

4th.-They shall, with all convenient speed, and in all cases within two calendar months at the most, unless the local authority otherwise consent in writing, complete the work for which the said road shall be broken up, and fill in the ground, and make good the surface, and, to the reasonable satisfaction of the local authority, restore the road to as good a condition as that in which it was before it was opened or broken up and clear away all surplus materials or rubbish occasioned thereby.

5th.-They shall in the meantime, when such road is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

- 6th .- They shall make good all damage done to the gas and water-pipes, sewers, drains, culverts, bridges and fences, whether belonging to the local authority or to private individuals, by the disturbance thereof, and shall not cause any interruption in the supply of gas in or through any main or pipe, or the flow of water through any pipe, drain, culvert, bridge or other waterway; if they fail to make such damage good, or to remove such interruption within reasonable time, the local authority may, without prejudice to the penalties payable under section 29, cause the same to be made good at the promoters' exponse.
- 16. The promoters shall at their own expense at all times Promoters to maintain and keep in good condition and repair, in such transpays manner as the local authority shall direct the rails of which proper repair. any of their tramways shall for the time being consist, and so much of any road as lies between the rails of any tramways; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of road as extends eighteen inches beyond the rails of and on each side of any such tramways; and in the course of carrying out repairs it shall not be necessary to give notice. thereof to the local authority.

17. In exercising the powers given to them by the last Promoters not two preceding sections the promoters shall arrange their work ordinary to afford the least possible obstruction to the ordinary traffic.

of 1003.]

(Part II.—Construction of Tramways.—Part III.— Working of Tramways.—Secs. 18-22.)

traffic of the roads or to the ordinary means of approach to houses situated on either side of the roads, and so as to admit of as free and unrestricted entry at all times into the sewers, drains, culverts and bridges for the time being in use as is possible under the circumstances and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the local authority.

18. Nothing in this Act, or in any by-law made under this Receivation of right of Act, shall take away or abridge the right of the public to pass public to use along or across every or any part of any road along or across roads. which any tramway is laid, whether on or off the tramway, with carriages not having flange wheel or wheels suitable to run on rails. But the right of the public shall not include the use of any new roadway, embankment or earthwork constructed or acquired for the special and exclusive use of the

19. Notwithstanding anything in this Act contained the Right of user only. promoters shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

PART III.

WORKING OF TRAMWAYS.

20. No tramway shall be opened for public traffic until No tramway to be opened to the same has been inspected and certified by an Engineer or with other officer, appointed in that behalf by the Local Government, from to be fit for such traffic.

21. When a tramway has been completed under the provi- Local authorsions of this Act and certified to be fit to be opened for public ity may lease or take tolls. traffic under the last preceding section, the local authority or other promoters may, subject to the provisions of this Act, place and run carriages on such tramway, and demand and take tolls and charges in respect of the use of such carriages; or may, by lease to be approved of by the Local Government, demise to any person, persons, corporation or company the right of user by such person, persons, corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorized; or such authority may leave such tramway open to the public, and may in respect of such user demand and take the tolls and charges authorized.

22. The cars and carriages of the promoters on the lines Carriages box of the tramway shall be worked with such power, animal, mechnical or otherwise, as may be specified in the order issued by the Local Government under section 5.

(Part III.-Working of Tramways.-Secs. 23-28.)

Promoters may use tram way carriages with flange wheels. 23. The promoters may use on their tramways carriages with flange wheels or wheels suitable for running on the prescribed form of rail, and, subject to the provisions of this Act, they shall have the exclusive use of their tramways for carriages with flange wheels, or other wheels, suitable for the said form of rail.

Promoters may fix and demand fares. 24. The promoters shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

Provided that the rate of fare for each person or parcel shall not exceed the maximum rates anthorized in the order of the Local Government issued under section 5.

Printed list of fares, etc., to be placed in carriages. 25. A printed list, in English and the vernacular of the district, of all the fares and charges fixed under the authority of the last preceding section, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the promoters upon any of their tramways.

Fares how to be paid.

The fares and charges fixed as aforesaid shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the promoters may, by notice to be annexed to the list of fares, from time to time appoint.

By-laws by local authority, 26. The members constituting the local authority in a municipality or area in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such by-laws as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act or any rules framed under section 13.

The promoter may make certain bylaws. 27. The promoters may, subject to confirmation as aforesaid, from time to time make such by-laws 1—

for preventing disturbances, or the entry of persons suffering from infectious diseases, or the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to them; and

for regulating the travelling in or upon any carriage belonging to them:

Provided that such by-laws are not inconsistent with this Act or with any rules or by-laws framed under sections 13 and 26.

Publication of by-laws. 28. All rules and by-laws made under sections 13, 26 and 27, and confirmed by the Local Government, shall, when

¹ For by-laws made under sections 26 and 27 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Et. VI.

of 4863.

(Part IV.—Offences.—Secs. 29-31.)

so confirmed, be published in the Calcutta Gazette, and such rules and by laws when so published shall, until repealed or altered, be of the same effect as if they had been inserted in this Act:

Provided that no rules and by-laws shall be confirmed by the Local Government until they shall have been published for at least one month previously in the Calcutta Gazette and in one or more of the local newspapers (if any exist) which circulate in the district to which such rules and by-laws relate.

PART IV.

OFFENCES.

29. If the promoters, not being the local authority, fail Penalty for in any respect to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such promoters to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such provisions of specific provisions of offence (without prejudice to the enforcement of specific provision this Act. performance of the requirements of this Act, or to any other remedy against them), upon complaint of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

30. If any person wilfully obstructs any person acting Penalty for obstructing under the authority of the promoters in the lawful exercise of promoters in their powers in setting out or making, laying down, repairing the exercise of their power. or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the lines of the tramway, he shall, for every offence, be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

31. If any person without lawful excuse (the proof whereof interlering shall lie on him) wilfully does any of the following things, with tram-

namely: interferes with, removes or alters any part of a tramway of the promoters, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing,

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

(Part IV.-Offences.-Part V.-Miscellaneous.-Secs. 32-36.)

Penalty for avoiding payment of proper fare. 32. If any person travelling or having travelled in any carriage of the promoters avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence be liable to a penalty not exceeding ten rupees.

Servant of promoters may arrest persons avoiding payment of fare. 33. It shall be lawful for any servant of the promoters to arrest and take to the nearest police-station any person who shall be discovered in committing or attemping to commit any such offence as in the last preceding section mentioned, and who shall refuse to give his name and residence, and is unknown to such servant.

Carriage of dangerous or offensive troods, 34. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the promoters to refuse to accept or carry any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Penalty for breach of by-laws. 35. Any person offending against any by-law made under the provisions of this Act shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such by-laws as a penalty for such offence.

PART V.

MISCELLANEOUS.

Promoters to be responsible for all damages. 36. The promoters shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and in all cases where the promoters are not the local authority they shall save harmless the local authorities

¹ For by-laws made under section 35 for Bengal as constituted on the 81st March 1912, see the sagal Local Statutory Rules and Orders, 1912, Vol. I., Part VI.

of 1882.]

(Part V.-Miscellaneous. Secs. 37, 38.)

and their respective officers and servants from all damages and costs in respect of such accidents, damages and injuries.

37. Nothing in this Act shall limit the powers of the local Power for the authority or the police to regulate the passage of any traffic ity or police ity or police. along or across any road along or across which any tramways to regular are laid down, and such local authority or police may exercise roads. their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other

The local authority shall not be liable to pay to the promoters any compensation for loss of traffic occasioned by the

reasonable exercise of such authority.

38. Nothing in this Act shall be construed to prevent the Reservation local authority or any corporate body or persons, in the of power over roads exercise of the powers conferred upon them under any law for the time being in force, from opening, breaking up, widening, altering, diverting or improving any of the roads, bridges, drains or culverts traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same:

Provided—

- (1) that they shall cause as little detriment or inconvenience to the promoters as circumstances admit;
- (2) that they may (if absolutely necessary, but not otherwise), order the temporary stoppage of traffic on the tramways or any of them on giving twentyfour hours' previous notice in writing to the promoters;
- (3) that before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;
- (4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement, proportioned to the length of road over which and time during which running is stopped, shall be made from the rent (if any) reserved and payable by the promoters;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the promoters at the expense of the local authority.

(Part V.—Miscellaneous.—Secs. 39, 40.)

Discontinuance of Tramways.

Tram ways to he removed in certain

39. If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Local Government, the Local Government, if it think fit, may by order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

Where such order has been made the Engineer or other officer appointed on that behalf by the Local Government may, at any time after the expiration of two months from the date of such order, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to such Engineer or officer the cost of such removal and of the making good of the road by such Engineer or officer.

Such cost to be certified by such Engineer or officer, whose

certificate shall be final and conclusive.

And, if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, such Engineer or officer may without any previous notice to the promoters (but without prejudice to any other remedy which he may have for the recovery of the amount) sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as such Engineer or officer may think fit; and may out of the proceeds of such sale make and re-imburse himself the amount of cost certified as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the said Engineer or officer to the promoters.

Inability of Promoters.

40. If at any time after the opening of any tramway it appears to the local anthority, or to the Magistrate of the district in which such tramway is situate, that the promoters of such tramway are insolvents, or that they are unable to maintain such tramway, or work the same with advantage to the public,

the Local Government, upon a representation to that effect made by such Magistrate or local authority, may direct an inquiry by a referee into the truth of the representation,

(Part V.-Miscellaneous.-Sec. 41.)

and if the referee shall find that the promoters are such insolvents, or that they are unable to maintain such tramway or work the same with advantage to the public, the Local Government may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end,

and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided; and thereupon the Engineer or other officer appointed on that behalf by the Local Government may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect, as in cases of removal under the last preceding section.

Purchase of Tramways.

41. The local authority shall have the right of purchasing local authority shall have the right of purchasin and everything connected therewith, upon the expiration of wayafter twenty-one years from the date of the order of the Local twenty-one Government authorizing the construction of such tramway, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given; and the value to be placed upon the tramway shall be calculated in a manner to be settled in the agreement entered into between the promoters and the said local authority and set forth in the order of the Local Government:

Provided that the promoters and the local authority may, with the consent of the Local Government, provide in the said agreement for the sale and purchase of the tramway on the expiration of any shorter [or longer] periods than those hereinbefore specified.

¹ The words " or longer" were inserted by the Bengal Tram ways (Amendment) Act, 1904 (Ben. Act 1 of 1904), s. 2, in Vol. III of this Code.

BENGAL ACT 5 OF 1883

[THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883].

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BENGAL ACT 5 OF 1883

[THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883],1

(16th May, 1883.)

An Act for the Registration and Control of Porters and Dandonwallas in the Darjeeling and Kurseong Municipalities.

Whereas it is expedient to provide for the registration and Preamble. control of porters and dandeewallas in the Darjeeling and Kurseong Municipalities; It is enacted as follows:-

1. In this Act the term "coolie" shall be limited to porters, Interpretaand to dandeewallas and other persons employed in carrying, drawing or propelling any vehicle.

The term "Commissioners" means the Commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884. or other Act for the time being in force for the regulation of municiplities.

2. This Act shall come into force in the Darjeeling and Commence-Kurseong municipalities respectively when extended thereto by an order of the Lieutenant-Governor published in the Calcutta Gazette.

Such order shall specify the date on which this Act shall commence in such municipality, and shall operate to extend the provisions of this Act to such municipality according to its tenor.

The Lieutenant-Governor may, at any time, cancel or modify an order made under this section.

3. The Commissioners shall, within fifteen days of such of order. publication, cause a copy of the order to be deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other places as the Commissioners may direct;

and a public proclamation of such order shall be made throughout such municipality by beat of drum.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 11 of 1908), Sch. I—see Vol. 1 of this Code. That Act is now known as the Amending Act, 1908—wide Act 10 of 1914, Sch. II.

Libouslative Parena.—For Statement of Objects and Reasons, see Calcutta Grazette, 1888, Part IV, p. 58; for Report of Select Committee, see ibid, p. 58, and for Proceedings in Council, see ibid, 1882, Supplement, p. 1491; ibid, Supplement, pp. 160 and 512.

Local Extern—This short extends only to the Darjeeling and Kurseong Municipalities (see the title and preamble), and comes into force therein only on publication of an order in the Calcutta Gasette (see S. 2).

3 Printed post, page 759.

4 For orders made under section 2, see the Bengal Local Statutory Rules and Orders, 1912, Nol. I, Pt. VI.

Pt. VI. Who we he Governor in Council of Fort William in Bengal—see the Bengal, Bibar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

Ben. Act 3 of 1884.

(Secs. 4-1U.)

Appointment of registering-officer. Licensing and registra-

coolies.

4. The Commissioners at a meeting shall, for the purposes

of this Act, appoint a registering-officer.

5. Every coolie personally working for gain within the limits of such municipality shall take out a license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a register in which he shall enter the name and residence of every such coolie, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas:

Provided always that the provisions of this section shall not apply to any coolie who is hired beyond the limits of the municipality for a period of time not exceeding twenty-four hours, but who performs a portion of the work imposed by

such hiring within such limits.

Period of license.

Details of

6. The year of registration shall commence on the first day of January of each year, and every license granted on any date within that year shall, subject to the provisions of sections 12 and 20, remain in force to the thirty-first day of December next following and no longer.

7. Every license granted by the registering-officer shall specify the number of the license, and the name and place of abode and age of the coolie to whom such license is granted, and shall further state whether such coolie is licensed to

- (a) a monthly or other servant for a fixed period of time exceeding twenty-four hours; or
- (b) a coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours.

Every license shall bear date on the day on which the same

shall be granted.

Licensed coulis to wear badge.

8. The registering-officer shall, at the time of granting the license to any coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal badge, upon which shall be marked or engraved a number corresponding with the number of such license.

Every coolie to whom such badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such coolie, or while attending before any

Magistrate, carry such badge exposed to view.

9. Whenever any coolie empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

10. The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may

Penalty for omiting to wear badge.

Nates of hire to be fixed and published.

make and publish, in such manner as they think fit, an order

1 For orders made under s. 10, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I,
Pt. VI.

(Secs. 11-13.)

specifying the rates of hire in respect of all coolies empowered to work by the job. or for any period not exceeding twenty-four

Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied:

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners:

Provided further that no such order shall take effect until it has been confirmed by the Lieutenant-Governor and published in the Calcutta Gazette.

A table of the rates of hire, legibly written or printed in English, Lepcha, Bhutia, Nagri, Urdu and Bengali, shall be affixed in some conspicuous place within the limits of the municipality; and a copy of the same or such portion thereof as may be deemed sufficient, shall be given to every coolie at the time of registration.

11. Every such coolie shall be entitled to receive payment coolie entitled for his hiring in accordance with the rates specified in the to payment according to order mentioned in the last preceding section:

Provided that nothing in this Act contained shall prevent special agree any such coolie from being bound by any contract into which he ments for may enter to receive payment at a rate lower than that fixed

12. Any coolie engaged as a monthly servant, or for some Registration of coolies other fixed period of time exceeding twenty-four hours, who when engaged shall be proved to the satisfaction of the Chairman of the an monthly servants. Commissioners,-

to have deserted from such employment without reasonable cause during the period of his engagement;

or to have been guilty of gross misconduct during such period of time;

or to have wrongfully prevented or endeavoured to prevent any other coolie from accepting employment,

shall be liable to have his license withdrawn or suspended for such period as the Chairman may direct.

13. Every coolie empowered to work by the job, or for any Penalty for period not exceeding twenty-four hours, who shall, without concommitreasonable excuse.

refuse to accept hire at the rate fixed for such hiring: or desert from his hiring before being discharged therefrom;

or demand more than the proper rate fixed for such hiring; or be drunk or make use of insulting or abusive language

during the period of, or while waiting for, such hiring;

or wrongfully prevent, or endeavour to prevent, any other coolie from being hired;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orlsan and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

lower rates.

(Secs. 14-17.)

or fail to produce his table of rates when required to do so, shall be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

14. Any coolie who shall work as such without being duly registered and licensed, and any coolie who, having a license in force, shall transfer or lend the same, or allow the same to be used by any other person, shall be liable, upon conviction in respect of any one of such offences, to a penalty, not exceeding ten rupees, or in default of payment to imprisonment not ex-

ceeding one month.

Coolie entitled to have new badge on loss or obliteration of former one.

Penalty for neglecting to deliver np badge, lend-

Penalty for being un-

licensed or louding

license to

another.

obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any badge shall be proved, to the satisfaction of the registering-officer, to have been lost or mislaid, the coolie to whom the license relating to any such badge shall have been granted shall deliver such badge (if he shall have the same in his possession), and shall produce such license to the registering-officer; and such coolie shall then be entitled to have a new badge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

16. Upon the expiration or other determination of any license granted to a coolie under this Act, such coolie shall deliver such license, and in the case of a coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, the badge relating thereto, to the said registering-

officer :

and every such coolie who, after such expiration or determination as aforesaid, shall wilfully neglect for one week to deliver the same to the said officer, and also every coolie who shall use, or wear, or detain any badge which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every coolie to whom any badge shall have been delivered as aforesaid, who shall lend such badge to any other person, and every person who shall wear or use the badge of any other coolie;

shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment not exceed-

ing one week.

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any coolie so neglecting to deliver up his license or badge at any period, within twelve calendar months, after the expiration of

the license.

17. Every coolie or other person who shall, for the purpose of deception, use or wear or have any badge resembling any badge granted under the authority of this Act shall for every such offence be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one

month.

Penalty for using or having a counterfeit

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of 1863.

(Secs. 18-21.)

And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such badge, or any badge used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

18. Every coolie empowered to work by the job, or for any period of time not exceeding twenty-four hours, who shall be depositing in possession of any lost or unclaimed property, shall within lost or unclaimed twenty-four hours carry such property, if not sooner claimed property, by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the sub-inspector or other officer on duty; and any such coole making default herein shall be liable to a penalty not exceeding five rupees, or, in default of payment, to imprisonment not exceeding one week.

19. Whenever any coolie shall be summoned to appear Conviction to before any Magistrate to answer any charge preferred against on con before any Magistrate to answer any charge preferred against on cooler him under this Act, he shall carry with him his license, and license.

Penalty for produce the same if required so to do; and any coolie who shall failing on such requisition fail, without reasonable cause, to produce produce floones, such license, shall for every such offence be liable to a fine not exceeding five rupees.

It shall be lawful for any Magistrate, on conviction of any coolie of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the

penalty inflicted.

20. It shall be lawful for any Magistrate before whom any Revocation or coolie shall be convicted of any offence, whether under this Act coolie shall be convicted of any offence, whether under this Act or under any other law in force, to revoke the license of such on his coolie, or to suspend the same for such time as the Magistrate any offence. shall think proper, and for that purpose to require the coolie, or any other person in whose possession such license and the badge (if any) thereto belonging shall then be, to deliver up the same;

and every coolie or other person who, being so required, shall refuse or neglect to deliver up such license and such badge, or either of them, shall be liable to a penalty not exceeding ten rupees, so often as he shall be so required, and refuse or neglect as aforesaid;

and the Magistrate shall immediately send every license and every badge delivered up to him under this section to the registering-officer, who shall cancel such license if it has been revoked by the Magistrate, or, if it has been suspended, shall, at the end of the time for which it shall have been suspended, re-deliver such license with the badge (if it shall have come into the possession of the registering-officer) to the coolie to whom it was granted.

21. If any person who shall have hired any coolie shall Penalty to refuse to pay such coolie, or any authorized agent on his behalf, the proper sum payable for such hiring, it shall be lawful for here. any Magistrate to order payment of such sum and also such

688 THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883.

[Ben. Act 5 of 1883.]

(Secs. 22, 23.)

compensation as shall seem reasonable; and, in default of payment, such sum and compensation may be recovered in the same way as fines are recoverable under any Act1 for the time being in force for the regulation of municipalities.

Jurisdiction.

22. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed, but such Magistrate shall be subject to the provisions of the Code of Criminal Procedure as to the 10 of 1882. amount of fine or imprisonment he may inflict:

Provided that the provisions of this section shall not apply

to section 12 of this Act.

Disposal of fines.

23. All penalties and fines to be levied under this Act shall be placed to the credit of the municipal fund.3

¹ See the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 355, post, p. 856, and the Code of Criminal Procedure, 1898 (5 of 1898), ss. 885 et seq., in General Acts, 1898-1908, Ed. 1909, p. 160.

Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to the latter Act—see s. 8 (1) of that Act, in General Acts, 1898-1908, Ed. 1909, p. 40.

As to this fund, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 67. post, p. 788.

BENGAL ACT 1 OF 1884

[The Puri Lodging-House (Extension) Act, 1884].1

(12th March, 1884.)

An Act further to amend Bengal Act 4 of 1871.

Whereas it is expedient further to amend the Puri Lodging- Preamble. Ben. Act 4 of 1871 house Act, 1871 (4 of 1871), as amended and extended by Bengal Act 2 of 1879*; It is enacted as follows:-

1. (Commencement of Act). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

t, 1903—rade Act 10 07 1012, partial 2. In section 3 of Bengal Act 2 of 1879 the following clause Further modification shall be inserted after the second paragraph thereof :-"in section 7, after the word 'each' the words 'day or 'shall 4 of 1871.

be inserted."

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—ride Act 100 of 1914, Sch. II.
LEGISLATIVE PAPERE.—For Statement of Objects and Reasons, see Calcutta Gazetta, 1884, Pt. IV, page 45; and for Proceedings in Council, see ibid, 1884, Supplement, pages 57, 91 and 171.
LOCAL EXTRET.—As to the local extent of this Act, see footnote 1 on p. 199, ande. The Act has been repealed in Western Bengal by the Puri Lodging-house (Amendment) Act, 1908 (Ben, Act 3 of 1908), a. 16; in Vol. III of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

3 Printed ante, page 199.
3 Printed ante, page 888.

BENGAL ACT 2 OF 1884

[THE CALCUTTA TRAMWAYS (AMENDMENT) ACT, 1884].1

(30th April, 1884.)

An Act to amend the Calcutta Tramways Act, 1880.

Whereas it is expedient to facilitate the construction and Preamble. regulate the working of tramways within such portions of Calcutta as are not 2 [subject to the authority of the Corporation of Calcutta], and to make due provision for their general management, supervision and control; and whereas it is necessary to amend the Calcutta Tramways Act, 1880,3 for the purposes aforesaid; It is hereby enacted as follows:-

1. This Act shall be read with, and taken as part of, the construction Calcutta Tramways Act, 1880.3

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903vide Act 10 of 1914, Sch. 11.

2. (Definition of "Calcutta"). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending

Act, 1903 _ ride Act 10 of 1914, Sch. II.

3. All tramways constructed [in those portions of Calcutta, Certain tramways to as defined in the Calcutta Municipal Act, 1899, which are not be subject to subject to the authority of the Corporation of Calcutta] shall Local Governbe subject to the general management, regulation and control ment. of the Local Government; and the Local Government shall in this behalf exercise all the rights, powers, functions and authorities which would, under the provisions of the Calcutta Tramways Act. 1880, have been exercised by the Corporation if such tramways had been constructed wholly [within the area subject to their authority].

Ben. Act 1 of 1880.

Ben. Act 8 of 1899.

Ben. Act 1 of

1 SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. L—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—eigle Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1884, Pt.

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IV, 1986 b2; and for Proceedings in Council, see ibid, Supplement, pp. 895, 464, 497 and 514.

IV, 1986 b2; and for Proceedings in Council, see ibid, Supplement, pp. 895, 464, 497 and 514.

Tramways Act, 1880 (Ben. Act 1 of 1880), it has the same local extent as that Act, as to which see footnots on a 489 and a supplement.

Tram ways Act, 1880 (Ben. Act 1 of 1880), it has the same local extent as that Act, as to which see footnote on p. 489, ante.

* These words in square brackets, in the preamble, were substituted for the words and figures in situate within the local limits of the town as defined in the Calcutta Municipal Consolidation at the case of the printed sate, p. 489.

* Printed sate, p. 489.

* These words and figures in square brackets in s. 8 were substituted for the words and figures of the case of t

of this Code.

5 Printed in Vol. III of this Code.

6 These words "within the area subject to their authority" were substituted for the words of these words within the local limits of the town, as defined by the Calcutta Municipal Consolidation and figures "within the local limits of the town, as defined by the Calcutta Municipal Consolidation and figures" within the local limits of the town, as defined by the Calcutta Municipal Consolidation and figures "within the local limits of the town, as defined by the Calcutta Municipal Consolidation and figures" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

692 THE CALCUTTA TRAMWAYS (AMENDMENT) ACT, 1884.

[Ben. Act 2 of 1884.]

(Secs. 4, 5.)

Corporation not to have control in respect of tram way outside limits of the town.

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- 4. Nothing in this Act shall be construed so as to give the Corporation any control, power or authority in respect of any tramway or part of a tramway constructed 1 [outside the area subject to their authority].
- -5. The provisions of this Act and of the Calcutta Tramways Ren. Act 1 of the 1880. 4 shall same to any tramway that may have been 1880. Act, 1880, shall apply to any tramway that may have been constructed before this Act comes into force, notwithstanding any omission or irregularity in publishing any notice required to be published under section 4 of the said Calcutta Tramways Act, 1880.

¹ These words in square brackets in s. 4 were substituted for the words and figures "outside the limits of the town, as defined by the Calcutta Municipal Consolidation Act. 1876," by the Repealing and Amending Act, 1908 (1 of 1908). Sch. II—see Vol. I of this Code.

8 Printed ante, page 489.

BENGAL ACT 3 OF 1884

(THE BENGAL MUNICIPAL ACT, 1884).

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[Ben: Agt 8 of 1884.]

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- Application for permission to erect, re-erect or materially alter a hut.
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- Materials.
- Laying of stones, Bonding. Solidity. 3.

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BENGAL ACT 3 of 1884

(THE BENGAL MUNICIPAL ACT, 1884).1

(7th May, 1884.)

An Act to amend and consolidate the law relating to municipalities.

Whereas it is expedient to consolidate and amend the law Preamble. relating to municipalities within the territories subject to the government of the Lieutenant-Governor of Bengal'; It is enacted as follows:-

PRELIMINARY.

1. This Act may be called the Bengal Municipal Act, 1884: Short title [And it shall come into force on such date as the Lieute- menoement nant-Governor may direct, not being more than three months after the date on which it may be published in the Calcutta Gazette with the ssent of the Governor General.]

1 LEGIBLATIVE PAPERS. -For Statement of Objects and Reasons, see Calcutta Gazette, 1888, Pt. IV. p. 39; for Prelimmary Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Select Committee, see ibid. p. 243; for further Report of Calcutta Municipal Act, 1898 (Ben. Act & of 1884), in Vol. III of this Code.

Ben. Act & of 1884 applies—

(1) to places which were constituted municipalities under the Bengal Municipal Act, 1876 (Ben. Act & of 1876),—see 8. 8, post, p. 710, and
(2) to towns and villages to which the Act is extended under s. 8, post, p. 715.

Power to withdraw municipalities from the operation of this Act, to exclude local areas from municipalities, and to include local areas in municipalities, signifies, and to include local areas in municipalities, signifies, and to include local areas in municipalities, signifies, and to include local areas in the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 8, in Vol. III of this Code.

Restrictions on the application of Ben. Act 8 of 1884 to particular territory are imposed by ss 5 and 10, post, pp. 711 and 717.

The Local Government is empowered by ss. 173 and 174 (post, p. 768) to direct that Part V (ss. 230 to 278) and Part X (ss. 385 to 346) apply (see s. 220, post, p. 786)—

(a) to municipalities in which Parts VII and IX, respectively, of the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876) were in force, and (b) to municipalities to which they are specially extended by the Local Government—see s. 2490, post, p. 786.

Part XII (ss. 2490 to 2494) apply only to municipalities to which they are extended by the Local Government—see s. 2490

p. 587 . 4 i.e., the 7th May, 1884. The third clause of s. 1, as to notifications, etc., before the commencement of the Act, was repealed by the Repealing and Amending Act, 1908 (1 of 1908), and is omitted. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

[Ben. Act 3

(Preliminary—Secs. 2, 3,)

renealed.

* 1 The enactments specified in the sixth Schedule shall be repealed to the extent mentioned in the third column thereof.

But this repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accound, before the commencement of this Act.

And] all rules and by-laws prescribed, assessments, valuations, measurements, divisions and appointments made, powers conferred and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

²[In every enactment passed before this Act comes into force in which reference is made to Bengal Act 3 of 1864 (the District Municipal Improvement Act) , or to any enactment hereby repealed, such reference shall, so far as may be practi-

cable, be taken to be made to this Act or to its corresponding

part or section.]

Saving clause.

" Notificadefined.

⁵[The expression "notifications" as used in this section shall be deemed to include, and to have always included, all directions, declarations and orders given, or made, and published under any enactment referred to in this section:

Provided that nothing in this definition shall be deemed to affect any decision or order of a competent Court made before the date on which this Act shall come into force.]

In respect of all the matters aforesaid, the Commissioners under this Act shall be substituted for the Commissioners elected or appointed under the Bengal Municipal Act, 1876.

3. Every place which has been constituted a municipality under the provisions of the Bengal Municipal Act, 1876, and Ben. Act 5 of has not been withdrawn from the operation of the said Act before this Act comes into force, shall, from the time when this Act shall come into force, be deemed to be constituted a municipality under the provisions of this Act.

Existing municipaliBen. Act 5 of 1876.

¹ Formal words in s. 2 were repealed by the Repealing and Amending Act, 1908 (1 of 1908),

¹ Formal words in s. 2 were repealed by the Repealing and Amending Act, 1900 (1 or 1900), and are omitted.

2 This clause in square brackets in s. 2 was substituted for the original clause by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 2 (2), in Vol. III of this Code. The original clause ran thus—

"And all references to any such enactment shall (so far as may be practicable) be deemed to be made to this Act."

2 The District Municipal Improvement Act, 1864. It was repealed by Bengal Act 5 of 1876, and the latter Act has again been repealed by s. 2 of this Act.

4 The fifth clause of s. 2, as to pending proceedings, was repealed by the Repealing and Amending Act, 1907 (1 of 1908), and is omitted.

3 These clauses in squares brackets were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 1894), s. 2 (1), in Vol. III of this Code.

5 The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), was repealed by s. 2 of this Act—see Beh. VI, post, p. 869.

of 1884.

1876. Act 5 of

(Preliminary.-Secs. 4-6.)

4. All property, movable and immovable, and all interest All property of any kind whatsoever, derived under any of the enactments missioners specified in the sixth Schedule, or otherwise, and vested in, or commisheld in trust for, the late Commissioners under the said Bengal sioners Municipal Act, 1876, shall become vested in the Commis-under this Act. sioners, and their successors; and all rights of whatsoever description used, enjoyed or possessed by the late Commissioners under any such enactment shall become vested in the Commissioners for the purposes of this Act.

5. Notwithstanding anything contained in section 3, this Act not to be extended to Act shall not take effect in any cantonment without the cantonments consent of the Governor General in Council previously obtained, nor shall the Local Government extend this Act, or any Governor part thereof, to any cantonment without such consent.

6. In this Act, unless there be something repugnant in the Definitions.

subject or context,-(1) "carriage" means any wheeled vehicle with springs "Carriage." used for the conveyance of human beings and ordinarily drawn by animals:

(2) "cart" means any cart, hackery or wheeled vehicle with "Cart." or without springs ordinarily drawn by animals, and not included in the definition of "carriage":

(3) "holding" means land held under one title or agreement "Holding"

and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act other than those mentioned in clause (a) of section 85.

Explanation.-Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this provise :

(4) "house" includes any hut, shop, warehouse or building: "House."
(5) "immovable property" and "land" include (besides "Immovable

land) benefits arising out of land, houses, things attached to the property. earth, or permanently fastened to anything attached to the earth: (6) "movable property" means property other than im- "Movable

movable property: (7) "Magistrate of the district" means the Chief Magistrate "Magistrate of district."

in a district :

(8) "the Magistrate" includes the Magistrate of the district, "The Magisthe Magistrate in charge of a division of the district in which division a municipality is constituted, and every Magistrate subordinate to the Magistrate of the district to whom the Magistrate of the district may have made over any duties under

(9) "municipality" means any place in which this Act. or "Municipality." any part thereof, is in force:

¹ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), was repealed by s. 2 of this Act—see Sch. VI, post, p. 869.

(Preliminary.—Sec. 6.)

" Offensive matter.

(10) "offensive matter" means dirt, dung, putrid or putrefying substances, and filth of any kind not included in the term "sewage":

"Owner."

- (11) "owner" includes-
- (a) every person who is entitled for the time being to receive any rent in respect of the land with regard to which the word is used, whether from the occupier or otherwise;
- (b) a manager on behalf of any such person;
- (c) an agent for any such person;
- (d) a trustee for any such person:

Provided that no such manager, agent or trustee shall be liable to do anything required by this Act to be done by the owner nor shall he be subject to any fine for omitting to do such thing unless he have sufficient funds in his hands as such manager, agent or trustee to do such thing:

"Part."

(12) "Part" means a Part of this Act:

" Road."

(13) "road" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public

" Rubbish."

have a right of way:

(14) "rubbish" means broken brick, mortar, broken glass, kitchen or stable refuse, or refuse of any kind whatsoever not included in the term "offensive matter":

"Sanitary Board."

1[(14A) "Sanitary Board" means the persons for the time being appointed, either by name or by official designation, by the Local Government by notification in the Calcutta Gazette

h Schedule."

to constitute a Sanitary Board for Bengal:]
(15) "Schedule" means a schedule annexed to this Act:

"Bection." "Bewage."

(16) "section" means a section of this Act:
(17) "sewage" means night-soil and other contents of privies, drains and cess-pools:

"The Com-

(18) "the Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act:

"Year."

(19) "year" means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any municipality by the Local Government by notification in the Calcutta Gazette.

¹(20) "bridge" includes a culvert; ¹(21) "drain" includes a *jhora*, water-course,

channel or natural drainage line;

(22) "dwelling-house" means a masonry or framed building constructed, used or adapted

¹ Clause (14A) was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), at 3, in Vol. III of this Code.

² For a notification issued under cl. (14A) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI:

³ Clauses (20) to (35) were added to a. 6, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 4, in Vol. III of this Code.

in hine!

(Preliminary.—Sec. 6.)

to be used wholly or principally for human habitation;

1(23) "framed building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

1(24) "Government road" means a road maintained by the Government or at the public

expense;

1(25) "hut" means any building no material portion of which above the plinth-level is constructed of masonry or of squared timber framing or iron framing;

1(26) "masonry building" means any building

other than a framed building or a hut;

1(27) the expression "materially alter," when used with reference to a building, includes—

- (a) the construction of a roof or an external or party wall,
- (b) any repairs to the building which involve the reconstruction of a masonry or framed wall or a masonry chimney after the same has been entirely or in great part demolished,

(c) the closing-up of any door or window in an external wall,

(d) any alteration of the internal arrangements of a building which effects an alteration of its drainage, ventilstion or sanitary arrangements, or which affects its security,

(e) the addition of any building, room, verandah, outhouse or other structure,

(f) the roofing of any space between one or more walls and buildings,

(q) the enclosing of any verandah,

(h) the conversion into more than one place for human habitation of a building originally constructed as one such place, and

(j) the conversion of two or more places for human habitation into a greater number of such places:

Explanation.—Clause (f) applies only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings;

(Preliminary.—Sec. 6.)

1(28) "plinth" means the part of a wall between the ground-level and the level of the lowest floor of a building;

1(29) "private bridge" means any bridge which is not a public bridge as defined in this section;

1(30) "private drain" means any drain which is not a public drain as defined in this section, and includes any surface, sullage or

other drain on private property;

1(31) "private road" means any road, path,
street, alley, way or passage which is not a
public road or a Government road, as defined

in this section;

1(32) "public bridge" means a bridge on or over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners;

1(33) "public drain" means any drain which
is vested in the Commissioners;

1(34) the expression "public road" means any road, path, street, alley, way or passage over which the public have a right of way, and the property in which is vested in the Commissioners; and, as used in section 189, section 207, section 216, section 217, clause (1), and section 235, and in rule 5 of Schedule B and rule 18 of Schedule C, includes also a Government road:

1(35) the expression "re-erect," when used with reference to a building, includes-

- (a) the re-construction of a building after more than one-half its cubical extent has been taken down or burnt down or has fallen down,
- (b) the conversion of one or more huts or temporary structures into a masonry or framed building, and
- (c) the conversion into a place for human habitation of any building not originally constructed for human habitation:

Explanation.-Clause (a) applies, whether the re-construction name.—James (2) appries, whether the re-paintraction takes place (after the commencement of the Darjeeling Municipal Act, 1900) sutirely at the same time or by instalments at different times, and whether more than half the cubical extent has (after the commencement of

s footnote ³ on page 712, aute. n, set 1 of 1900 is printed in Vel, III of this Code.

n. Act 5 1876.

(Preliminary.—Part I.—Of the Creation of Municipalities.— Secs. 6A-8.)

the Darjeeling Municipal Act, 1900) been taken down Ben. Act 1 or been burnt down or fallen down at the same time or of 1806.

³**6A.** The Commissioners may decide Power to whether any particular building is a framed croff. building, a masonry building or a hut, as defined building. in section 6; and their decision shall be final.

PART I.

OF THE CREATION OF MUNICIPALITIES.

7. In every place which, in accordance with the provisions Existing of section 3, becomes a municipality under this Act, every person who has been appointed or elected to be a Commissioner for such place under the Bengal Municipal and Act, 1876 and who is holding office as such Commissioner temporally continued. at the commencement of this Act, shall be deemed to be a Commissioner duly appointed for such municipality, until such time as the election or appointment of Commissioners in respect of such municipality shall take effect under the provisions of this Act.

And in every such place in which a rate on the annual value of holdings, or a tax upon persons, or a tax upon carriages and animals, or a fee upon the registration of carts, or tolls on roads or on ferries, or a fee under Bengal Act 6 of 1878 may have been levied by the Municipal Commissioners before the commencement of this Act, it shall be deemed that the said rate, tax, fee or tolls have been duly imposed under this Act, and such rate, tax, fee or tolls shall continue to be levied accordingly until the Commissioners at a meeting, with the sanction of the Local Government, shall otherwise direct.

8. Except as is hereinafter otherwise expressly provided, Local Covernment by Government by this Act may be extended by the Local Government by Government notification published in the Calcutta (tazette, and in the manner prescribed by section 354, to any town or village not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, from such date as may be specified in such notification; and, save as is hereinafter otherwise provided, this Act shall

¹ Ben. Act 1 of 1900 is printed in Vol. III of this Code.

⁸ Section 6A was inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 5, in Vol. III of this Code.

⁸ Ben. Act 5 of 1876 was repealed by s. 2 of this Act—see Sch. VI, post, p. 869.

⁴ Ben. Act 6 of 1878 (Latrines) was repealed by s. 2 of this Act—see Sch. VI post, p. 869.

⁸ For lists of notifications issued under section 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.-Of the Cre tion of Municipalities.-Sec. 9.)

take effect in such town or village on the date so specified, and the said town or village, within the limits mentioned in such notification shall be deemed to be created a municipality for the purposes of this Act:

Provided that, at least six weeks before publishing any notification as aforesaid, the Local Government shall cause to be published in the town or village concerned a notice of its intention to declare the said town or village to be a municipality, unless good reason to the contrary be shown within one month.

Any objections which may be made to the proposed measure shall be duly considered by the Local Government before it causes to be issued the notification declaring the town or village to be a municipality under this Act.

Every notification declaring a town or village to be a municipality shall specify whether the name of such municipality shall, or shall not, be inserted in the first or second Schedule of this Act, and shall further specify, subject to the provisions of section 13, the number of the Commissioners of such municipality.

19. The Local Government may, on the recommendation of the Commissioners at a meeting, by notification published in the Calcutta Gazette, and in such other manner

as it may determine, declare its intention-

(a) to withdraw any municipality from the operation of this Act; or

- (b) to exclude from a municipality any local area comprised therein and defined in the notification;
- (c) to include within a municipality any local area contiguous to the same and defined in the notification; or
- (d) to sub-divide any municipality into two or more municipalities; or
- (e) to alter the number of the Commissioners of a municipality.

Government may, on And the Local the mendation of the Commissioners at a meeting of both or all the municipalities concerned, by notification similarly

Notification of intention to alter limits municipality.

¹ The sections 9, 9A and 9B were substituted for the original section 9 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1891), s. 4, in Vol. III of this Gode.
The original section 9 ran thus:

"9. The Local Government may, on the recommendation of the Commissioners at a meeting, by a like notification, at any time vary the limits of any municipality, or sub-divide any municipality into two or more municipalities, or withdraw any town, village or land from the operation of this Act or alter the number of the Commissioners of such municipality.

5 For power to declare that any area within the Darjeeling District and adjacent to the Darjeeling Municipality for the purposes of specified portions of the present Act, see the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 3, in Vol. III of this Code.

(Part I.—Of the Creation of Municipalities —Sec. 9A-10.)

published, declare its intention to unite two or more municipalities so as to form one municipality:

Provided that no local area shall be included within a municipality unless the Local Government shall have been satisfied that three-fourths of the adult male population of such local area are chiefly employed in pursuits other than agriculture :

Provided also that whenever it shall appear, either from a general census or from special inquiries undertaken in this behalf, that any municipality does not comply with

the conditions laid down in section 10, the Local Government may, of its own motion declare its intention to withdraw such municipality from the provisions of this Act or to deal with it in the manner stated in this section:

Provided also that where the local area to be excluded or included is a cantonment or part of a cantonment, no notification affecting it shall be published under this section without the previous consent of the Governor General in Council.

19A. (1) Any rate-payer of a municipality, inhabitant of a Objection to local area, or, when the union of two or more municipalities alteration has been recommended, the Commissioners of any one or more may be submitted of such municipalities, in respect of which a notification has to Local been published under the last preceding section may, should he Government. or they object to the alteration proposed, submit his or their objection in writing, through the District Magistrate to the Local Government within six weeks from the publication of the notification in the Calcutta Gazette; and the Local Government shall take such objection into consideration.

(2) When six weeks from the publication of the notification have expired and the Local Government has considered the objections (if any) which have been submitted under subsection (1) of this section, the Local Government may, by notification2, give effect to the proposed alteration or not, as

the case may be. 19B. Whenever two or more municipalities are united, or Local Government a municipality is sub-divided, under the two last preceding may apport sections, the Municipal Funds or Fund, and all property vested and dispose of municipal municipal in the Commissioners of the municipalities or municipality property aport concerned, shall be consolidated, or apportioned in such or union of manner as the Local Government may direct.

10. This Act shall not be extended to any town or village Conditions on unless the Local Government shall have been satisfied that which manicipality three-fourths of the adult male population of such town or may

municipal-

See foot-note 1 on page 716, ante.
 For lists of notifications issued under section 9A for Bengal as constituted on the 8fst March,
 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.
 For an order issued under section 9B, see the Bengal Local Statutory Rules and Orders, 1912,
 Vol. I, Part VI.

(Part I.—Of the Creation of Municipalities.—Part II.—Of the Municipal Authorities.—Secs 11-14.)

village are chiefly employed in pursuits other than agricultural, and that such town or village contains a number of inhabitants, not being less than three thousand, and an average number of not less than one thousand inhabitants to the square mile of the area of such town or village.

11, 12. (Local Government may unite places to a municipality.—Land between municipality and place united to form part of municipality). Rep. by the Bengal Municipal (Amend-

ment) Act, 1894 (Ben. Act 4 of 1894), s. 5.

PART II.

OF THE MUNICIPAL AUTHORITIES.

Of the Constitution of the Municipality.

Number of Commissioners. 13. The number of Commissioners of a municipality constituted before the passing of this Act shall be such number as may be specified in a notification of the Local Government, to be issued immediately after this Act comes into force, and to be published in the Calcutta Gazette or in any subsequent notification under section 9.

The number of Commissioners of each municipality created under the provisions of section 8 of this Act shall be such number as is specified in the notification of the creation of such municipality or in any subsequent notification under

section 9:

Provided that the number of Commissioners of a municipality shall in no case be more than thirty or less than nine:

Provided, further, that no act of the Commissioners, or of their officers, shall be deemed to be invalid by reason only that the number of the Commissioners did not, at the time of the performance of such act, amount to the number specified in the notifications aforesaid.

Constitution of body of Commis14. Two-thirds of the number of the Commissioners of each municipality, fixed by such notification, shall be elected as hereinafter provided by male persons, resident within the limits of such municipality, who shall have attained the age of twenty-one years.

The remaining one-third of such Commissioners shall be appointed, '[either by name or by official designation], by the Local Government immediately after the result of the election hereinbefore mentioned shall have been notified to the Local

¹ For notifications issued under section 18, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

8 The words "either by name or by official designation," in a. 14, were added by the Bengal Municipal (Amendment) 2ct, 1894 (Ben. Act 4 of 1894), s. 6, in Vol. III of this Code.

(Part I.—Of the Municipal Authorities.—Sec. 15.)

Government, and such appointment shall be deemed to have been made on the date on which such election takes place:

Provided that the number of persons holding salaried offices under the Government, and appointed as Municipal Commissioners, shall not bear a larger proportion than one-fourth to the total number of Commissioners elected and appointed under the provisions of this Part:

Provided also that, in cases where the whole number of Commissioners is not evenly divisible by three or by four, the one-third or one-fourth shall be ascertained by taking the number next below the whole number, which is evenly divisible by three or by four, as the number to be divided.

15. For the purposes of the aforesaid election of Commis-Rules to be sioners, the Local Government, with respect to each municipality, shall lay down such rules,1 not inconsistent with the provisions of this Act, as it shall think fit in respect of the division, where necessary, of each municipality into wards, and the number of Commissioners to be elected for each of such wards, the qualifications required to entitle any person to vote for a candidate for election, and in respect of the mode of election, [and the authority who shall decide disputes thereunder]. And the Local Government may at any time cancel any rule made by it under this section:

Provided that every male person who is at the time of such election, and has been for a period of not less than twelve months immediately preceding such election, resident within

the limits of a municipality, and who-

³(i) has, during the year immediately preceding such election, paid in respect of any rates an aggregate amount of not less than three rupees, or

⁸(ii) has, during the year aforesaid, paid or been assessed to the tax imposed by Act 2 of 1886 (an Act for imposing a tax on income derived from sources other than agriculture), or

"(iii) being a graduate or licenciate of any University, or having passed the First Arts Examination of the Calcutta University, or the corresponding standard of any other University, or holding a license, granted by any Government Vernacular Medical School, to practise medicine, or holding a certificate authorizing him to practise as a pleader or as a mukhtar or as a revenue agent-occupies a holding, or part of a holding, in respect of which there has been paid, during the year aforesaid

¹ For lists of rules made under section 15 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

² The words "and the authority who shall decide disputes thereunder," in s. 15, were inserted by the Bengal Municipal (A mendment) Act, 1894 (Ben. Act e of 1894), s. 7 (f), in Vol. III of this Code.

² The clauses (i), (ii) and (iii) here printed were substituted for the former clauses by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 8 (1), in Vol. III of this Code.

⁴ The Indian Income-tax Act, 1886. It is printed in the General Acts, 1879-86, Ed. 1909, p. 542,

(Part II.-Of the Municipal Authorities.-Secs. 16, 17.)

in respect of any rates, an aggregate amount of not less than three rupees,

shall be entitled to vote at the election of Commissioners of such municipality.

No person who is not entitled to vote at the election of Commissioners of a municipality shall be deemed qualified for election to be a Commissioner of such municipality:

Provided that nothing contained in this section nor in any rules made under the authority of this Act shall be deemed to affect the jurisdiction of the Civil Courts.

The term "rates" in this section 2 means--

- (a) the tax upon persons and the rate upon the annual value of holdings levied under section 85;
- (b) the tax on carriages and horses levied under Part 1V:
- (c) the water-rate on the annual value of holdings levied under Part VII;
- (d) the lighting-rate on the annual value of holdings levied under Part VIII;
- (e) the fee for the cleansing of privies and cess-pools levied under Part 1X.]

² [Explanation. - Rules made under this section may reduce, but not raise, any of the sums mentioned in the first provise therete, and may declare that any persons who are not referred to in that provise shall be entitled to vote.]

First election of Commissioners.

On failure of election, Com-missioners to

be appointed by Govern-

Rates

defined.

[The first election of Commissioners under this Act may take place at such time, not being more than six months after this Act comes into force, as the Local Government shall direct.

If the persons entitled to elect Commissioners for any municipality fail [within the time appointed for the first election under this Act, or] for every subsequent election within 'the time prescribed by the rules mentioned in the last preceding section, to elect the whole number of Commissioners allotted for election to such municipality, the Local Government may appoint one or more Commissioners to complete the number so allotted as aforesaid.

Certain muni-Jertau. sipalities suded from lective

17. Every municipality mentioned in the first Schedule this Act shall be excluded from the οf of the three last preceding sections; and in any municipality so excluded the whole number of the Commissioners shall be appointed by the Local Government '[either by name or by official designation]; subject, however, to the proviso contained in the third clause of section 14.

³ These clauses in square brackets were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 7 (2), in Vol. III of this Code.

³ This word "means" was substituted for the words "shall be deemed to include" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 3 (2), in Vol. III of this Code.

⁵ This Emplanation was added by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1898), s. 3 (3), in Vol. III of this Code.

⁴ These words "either by same or by official designation," in s. 27, were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 8, in Vol. III of this Code.

(Part II .- Of the Municipal Authorities .- Secs. 18-22.)

It shall be lawful for the Local Government at any time to remove 1 the name of any municipality from the said Schedule.

18. (Resignation of Commissioners). Rep. by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 9.

19. The Local Government may, if it thinks fit, on the Removal of recommendation of the Commissioners at a meeting, remove by Local Gov any Commissioner appointed or elected under this Act, if such ernment. Commissioner shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

² 20. (1) The Commissioner of the Division may remove Removal of Commission any Commissioner-

by Commis-

- (a) if he refuses to act or becomes incapable of acting, or is Division, declared insolvent, or is convicted of any nonbailable offence; or
- (b) if he has been declared by notification to be disqualified for employment in the public service; or
- (c) if he absents himself from six consecutive meetings of the Commissioners without having obtained permission from the Commissioners at a meeting; or
- (d) if, in the judgment of the Commissioner of the Division to be recorded in writing, he has become disqualified to continue in office under section 57:

Provided that any Commissioner so removed may appeal to the Local Government.

(2) All acts and proceedings of any Commissioner so removed shall, if done previously to such removal, be valid and effectual to all intents and purposes.

21. Every Commissioner shall vacate his office at the end Tenure of of three years from the date of his appointment or election as Commissioner such Commissioner.

²22. No Commissioner who has been removed from his Certain Com office by the Local Government under section 19, or by the missioners in Commissioner of the Division under clauses (a) and (b) of sub- or re-elected section (1) of section 20, may be elected or re-elected a Commisment of Local Government. sioner without the consent of the Local Government.

¹ For a list of orders issued under paragraph 2 of section 17 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² This section was substituted for the original section 20 by the Bengal Municipal (Amendment) Act, 1884 (Ben. Act 4 of 1894), s. 10, in Vol. III of this Code. The original section ran thus:—

^{20.} Any Commissioner who, without having obtained permission from the Commissioners at a meeting, shall have omitted to attend six consecutive meetings of the Commissioners, and any Commissioner who shall have been convicted of a non-ballable offence, or shall have been declared insolvent by a competent Court, shall cause to be

² This section was substituted for the original section 22 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 11, in Vol. III of this Code. The original section ran thus:—

^{1894 (}Ben. Act 4 of 1844), s. 11, in Vol. 111 of this Code. The original section ran thus:—
"22. Any person who has resigned the office of Commissioner under section 18, or who has censed to be a Commissioner in consequence of his failure to attend meetings, or in consequence of his insolvency, as provided in section 20, may be at any time reappointed or re-elected a Commissioner; but no person removed by the Local Government from his office under section 19, or who has ceased to be a Commissioner in consequence of being convicted of a non-haliable offence, may be elected or re-elected a Commissioner without the sanction of the Local Government."

(Part II.—Of the Municipal Authorities.—Secs. 23-25.)

Appointment of Chairman.

- ¹23. (1) The Local Government shall appoint, either by name or by official designation, the Chairman of every municipality mentioned in the second Schedule of this Act.
- (2) The Commissioners of every municipality, the name of which is not included in the said Schedule, shall, at a meeting, elect one of their number to be Chairman, or may, whenever a vacancy occurs, at a meeting attended by not less than twothirds of the Commissioners, request the Local Government to appoint a Chairman, and such Chairman shall be appointed by name.
- (3) The Local Government may at any time remove a Chairman appointed by it.
- (4) The Local Government may at any time remove? the name of any municipality from the said Schedule.
- (5) Whenever the name of any municipality is removed from the said Schedule, the office of Chairman shall thereupon become vacant.

24. Notwithstanding anything in section 13 contained, Status and every Chairman appointed under the last preceding section, if not already a Commissioner of the municipality of which he shall have been appointed Chairman, shall, from the date of his appointment, during the term of his office, enjoy all the rights and privileges of a Commissioner of the municipality to which such appointment relates, but shall not be reckoned in

> calculating the proportions of one-third and one-fourth under the provisions of section 14.

> [Except as is otherwise provided in this Act] every Chairman, whether appointed or elected, shall hold office for three years from the date of his appointment or election and

shall be eligible for re-appointment or re-election.

A Chairman elected under the last preceding section may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners have given their votes at a meeting specially convened for the purpose.

25. The Commissioners at a meeting shall elect one of their own number to be Vice-Chairman. He shall hold office for three years from the date of his election, and shall be

eligible for re-election on the expiration of his term of office.

tenure of Chairman.

¹ This section was substituted for the original section 28 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 12, in Vol. III of this Code. The original section ran thus:—

^{1896 (}Ben. Act 4 or 1894), s. 12, in Vol. 111 of this Code. The original section ran thus:

"28. The Local Government shall appoint the Chairman of every municipality, the name of which is not included in the said Schedule, shall, at a meeting, elect one of its Commissioners to be Chairman; or may, at a meeting attended by not less than two-thirds of the Commissioners, request the Local Government to appoint a Chairman.

The Local Government may at any time remove a Chairman appointed by it.

The Local Government may at any time remove the name of any municipality from the said Schedule."

² For a list of orders issued under section 28 (4) for Bengal as constituted on the 81st March, 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² These words ⁴ Except as is ether wise provided in this Act, ² in a 24, were inserted by the Bengal Maninipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

(Paft II.—Of the Municipal Authorities.—Secs. 25A-27.)

The Vice-Chairman may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners shall have given their votes at a meeting specially convened for the purpose.

¹25A. If a Chairman or a Commissioner is appointed by Exercice appointments. official designation, the person for the time being holding the office shall be a Chairman or a Commissioner, as the case may be.

26. The term of three years mentioned in sections 21, 24 Tenure of and 25 shall be held to include any period which may elapse sections 21, between the expiration of the said three years and the date 24 and 26. of the 2[first meeting of the body of Commissioners newly appointed and elected at which a quorum shall be present, and any Chairman elected under sections 23 or 27 shall be competent to discharge the duties of his office after his election and pending the orders of the Local Government approving of his election]

³26A. Notwithstanding anything contained in sections Resignation 24, 25 and 27A, the Chairman and Vice-Chairman of every and vicemunicipality shall resign office at the first meeting of the Chairman. Commissioners newly appointed and elected at which a quorum shall be present.

The meeting shall thereupon proceed—

- (a) to elect, or to request the Local Government to appoint a Chairman, and
 - (b) to elect a Vice-Chairman:

Provided that if the municipality is in the second Schedule of this Act, or if the meeting decides to request the Local Government to appoint a Chairman, the resignat on of the Chairman shall not take effect until a new Chairman is appointed.

'26B. The Commissioners at a meeting may grant leave Leave may be of absence to their Chairman or Vice-Chairman for any period Chairman or not exceeding three months in any one year.

27. If any Commissioner, Chairman or Vice-Chairman man. Propintment be unable to complete his full term of office, * [or shall commissioner, the complete his full term of office, * [or shall commissioner, the complete his full terms of the commissioner, the commissioner, the commissioner, the commissioner of the commissioner, the commissioner of the commissioner o shall be unable to complete his full term of office, [or shall avail himself of leave granted under section 26B,] the vacancy caused by his resignation, or removal, or death [or absence on leave] shall be filled by the appointment or election, as the unexpired case may be, of another person; and the person so appointed or or during elected shall fill such vacancy for the unexpired remainder of

Vice-Chair-

¹ Section 25A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 14, in Vol. III of this Code.

2 The words and figures in square brackets in s. 26 were substituted for the original words by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 15, in Vol. III of this Code.

3 Section 26B was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 17, in Vol. III of this Code.

4 Section 26B was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 17, in Vol. III of this Code.

5 These words and figures in square brackets, in s. 27, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

6 The words "er absence on leave," in s. 27, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 27A-29A.)

the term for which such Commissioner, Chairman or Vice-Chairman would otherwise have continued in office 1 [or during his absence on leave, as the case may be].

Resignation of Chairman, Vice-Chair-Commissioner.

- ²27A. (1) A Chairman of a municipality may resign by notifying in writing his intention to do so to the Local Government, and on such resignation being accepted, shalf be deemed to have vacated his office.
- (2) A Vice-Chairman or a Commissioner of a municipality may resign by notifying in writing his intention to do so to the Chairman, who shall forthwith lay such notice before the Commissioners at a meeting, and on such resignation being accepted by such Commissioners, shall be deemed to have vacated his office.

llo wances of Chairman and

- 28. The Chairman and Vice-Chairman of any municipality may, if the Commissioners think fit, receive such allowances out of the municipal fund as shall from time to time be fixed at a meeting by the Commissioners.
- ³ [And in the case of a salaried Chairman or Vice-Chairman, the Commissioners may grant such leave allowances as they may from time to time determine at a meeting:

Provided that the allowance so granted, together with the acting allowance, if any, of the officiating incumbent shall not exceed the salary fixed for the office].

Incorporation of Commis-

29. The Commissioners shall, in the name of their Chairman, by the description of "the Chairman of the Municip-," be a body corporate, and have al Commissioners of perpetual succession, and a common seal, and in such name shall sue and be sued.

Such common seal shall have the name of the municipality engraved thereon in legible characters in the English language, and also in the vernacular of the district.

129A. (1) The powers and functions of the Local Government under sections 30, 255, 259 and 331 may be delegated by the Local Government to Commissioners of Divisions.

(2) In regard to powers or functions delegated to them under this section, Commissioners of Divisions shall have the same authority as the Local Government, and the delegation shall continue until revoked by the Local Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to all the municipalities within the Division of the Commissioner, or it may be made particularly in regard to certain municipalities only.

of certain so were and

¹ The words "or during his absence on leave, as the case may be," in s. 27, were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 18, in Vol. III of this Code.

1 Bection 37A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of . 1894), a. 19, in Vol. III of this Code.

1 Three clauses in square brackets in s. 28 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of . 1894), a. 20, in Vol. III of this Code.

4 Section 59A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of . 1894), a. 11, in Vol. III of this Code.

5 For an order issued under section 39A, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1812, Vol. I, Pt. VI.

(Part II.—Of the Municipal Authorities.—Secs. 30-32.)

(4) The delegation may be by name or by official designation, and shall, in each case, be notified in the Calcutta Gazette.

Of the Property of the Commissioners.

30. All roads, [including the soil, and all] bridges, tanks, Public roads, ghats, wells, channels and drains in any municipality (not the Commisbeing private property and not being maintained by Govern- stoners. ment or at the public expense), now existing, or which shall hereafter be made, and the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in, and belong to, the Commissioners.

But the Local Government 2 may, from time to time, by notification, exclude any road, bridge or drain from the operation of this Act '[or of any specified section of this Act], and may cancel such notification wholly or in part:

Provided that, if the cost of the construction of the work shall have been paid from the municipal fund, such work shall not be excluded from the operation of this Act '[or of any specified section of this Act] without the consent of the Commissioners at a meeting.

31. The Commissioners at a meeting may agree with the Commission person in whom the property in any road, bridge, tank, ghet, well, channel or drain is vested to take over the property over and therein or the control thereof, and after such agreement may repair roads, declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghát, well, channel or drain has been transferred to the Commissioners.

Thereupon the property therein, or the control thereof (as the case may be), shall vest in the Comm ssioners, and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

32. Every hospital, dispensary, school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property or the property of a school, rest-house, ghat hospitals, and market, not being private property of a school, rest-house, ghat hospitals, and market, not being private property of a school, rest-house, ghat hospitals, and ghat hospitals and other articles appurtenant thereto, not being such in the Comproperty, which at and after the comproperty of the compropert shall be found within any municipality, may, by order of the

¹ The words "including the soil, and all", in s. 80, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 22, in Vol. III of this Code.

2 As to the delegation to Commissioners of Divisions of the Local Government's power, and the contract of the code of the cod

³ As to the delegation to Commissioners of Divisions of the Local Government's power, as s. 29A, p. 723, asia.

3 For a list of notifications issued under para. 2 of section 30 for Bengal as constituted on the 31st March, 1912, see the Bengal Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

The District Fund, constituted under the Bengal Local Belf-Government Act of 1885 (Ben. Act & of 1885), cannot be applied to the repair, etc., of roads within municipalities until such roads assesspreasly excluded from the operation of the present Act by notification under a. 30 thereof-asses provise (2) to a 53 of the former Act, post, p. 380.

4 These words "or of any specified section of this Act," in a. 30 were inserted by the Bengal Manicipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 22, in Vol. III of this Code.

5 For a list of orders issued under section 82 for Bengal as constituted on the 51st Masch, 1913, see the Bengal Local Statutory Rules and Orders, 1915, Vol. I, Pt. VI.

| Ben. Act \$

(Part II.—Of the Municipal Authorities.—Secs, 33-37.)

Local Government duly published on the spot, be vested in the Commissioners of such municipality; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such Commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Calcutta Gazette, and within the municipality in the vernacular language of the district.

Transfer to be conditional in certain cases.

33. If the Commissioners at a meeting shall, after publication of the notice mentioned in the last preceding section, object to the transfer to themselves of any hospital, dispensary, school, rest-house, *ghât* or market, on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Commissioners at a meeting may agree to accept.

Power to purchase, lease and sell lands.

34. The Commissioners at a meeting may purchase or take on lease any land for the purposes of this Act, and may sell, let, exchange or otherwise dispose of any land not required for

such purposes.

Land may be taken up under Land Acquisition Act, 1894. 35. The Local Government, on the application of the Commissioners at a meeting that any land be acquired for the purposes of this Act, may, on being satisfied that the Commissioners are in a position to pay for such land either at once or in such instalments as the Local Government may think proper, notify, under the provisions of the Land Acquisition Act, 1870 or any similar Act for the time being in force for the 10 of 1870 acquisition of land for public purposes, that such land is required for a public purpose, and may cause such land to be acquired under the provisions of such Act; and, on payment by the Commissioners of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Commissioner to pay cost of 36. The Commissioners shall be bound to pay to the Government the cost of any land which may be acquired for them on their application under the provisions of the last preceding section.

Execution of contracts.

37. The Commissioners may enter into and perform any contract necessary for the purposes of this Act.

Every contract made on behalf of the Commissioners of a municipality in respect of any sum exceeding five hundred rapees, or which shall involve a value exceeding five hundred rapees, shall be sanctioned by the Commissioners at a meeting, and shall be in writing, and signed by at least two of the Commissioners, one of whom shall be the Chairman or Vice-

Act 10 of 1870 has been repealed and re-ensoted by the Laud Acquisition Act, 1894 (1 of 1894) and this reference should-now be construed as a reference to the latter -Stot-see s. 2 (3) thereof, in General Acts, 1887-97, Ed. 1999, p. 864.

(Part II.—Of the Municipal Authorities.—Secs. 37A-37C.)

Chairman, and shall be sealed with the common seal of the Commissioners.

Unless so executed, such contract shall not be binding on the Commissioners.

137A. The Commissioners of any municipality may join Formation of with the Commissioners of any other one or more municipalities, or with any District Board or with any Cantonment Authority, or with more than one such Board or Cantonment Authority in constituting out of their respective bodies a Joint-Committee, consisting of not more than two members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such Joint-Committee any power which might be exercised by either or any of the municipal bodies, or District Boards, or Cantonment Authorities concerned; and such Joint-Committee may from time to time frame rules as to the proceedings of any such Joint-Committee, and as to the conduct of correspondence relating to the purpose for which such Joint-Committee is constituted.

137B. Whenever it appears expedient to the Commissioners Voluntary of any municipality, or to the Commissioners of a municipality of wateracting conjointly with the Commissioners of any other muni-supply or cipality or municipalities, or with one or more of any of the drainage. local authorities specified in the last preceding section, to provide a supply of water for domestic purposes, or to introduce a system of drainage, they may cause to be prepared a scheme and estimates of the cost of the works necessary for the purpose, together with such plans and specifications of the same as may be necessary, and may submit the same to the Local Government through the Commissioner of the Division within which the area, or the larger portion of the area, which it is proposed to supply with water or to drain is situated.

376. The Local Government may refer such scheme, Santury Board with a plans, specifications and estimates to the Sanitary Board, who, Committee to

in consultation with a Committee consisting of one member consider to be appointed by the municipality or by each of the muni-scheme. cipalities or other local authorities concerned, and one member to be appointed by the Commissioner of the Division within which the area, or the larger portion of the area, which it is proposed to supply with water or to drain is situated,

shall consider the same and report thereon to the Local Government.

Scotions 87A to 87M were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 23, in Vol. III of this Code.
 As to District Boards, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885),

^{**} As to District Boards, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), post, p. 907.

** As to Cantonment Authorities, see the Cantonments Act, 1910 (15 of 1910).

** Bor a similar section applying to Municipal Commissioners, see the Bengal Local Self-Government Act of 1885), s. 30, post, p. 919.

** As to the transfer to Joint-Committees of High English schools in municipalities, see the Bengal Local Self-Government Act of 1885 (Ben. Act 2 of 1885), s. 64, post, p. 985.

** For an alternative procedure, see the Bengal Sanitary Drainage Act, 1895 (Ben. Act 3 of 1895), ss. 4, 25, in Yol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs: 87D-37F.)

Local Government may sanction modify or refer scheme

- ¹37D. The Local Government shall consider the report, together with the plans, specifications and estimates, and may thereupon—
 - (a) sanction the scheme, or
 - (b) add to, alter or modify the scheme and sanction the same so added to, altered or modified, or
 - (c) add to, alter or modify the scheme and refer the same so added to, altered or modified, together with the plans, specifications and estimates, to the Sanitary Board, who, in consultation with the said Committee, shall further consider the scheme so added to, altered or modified, and report thereon to the Local Government.

Distribution of costs of scheme.

- ¹37E. (1) When the scheme recommended for sanction extends to two or more municipalities or other local areas, the Sanitary Board, acting in consultation with the Committee, as constituted under section 37C, shall include in their report proposals for distributing the cost of the scheme, including its maintenance and working expenses, between or among the local authorities benefited.
- (2) In the case of municipalities, such distribution shall be in proportion to the income derived by each from taxation, allowance being made for any difference in the degree of benefit conferred on each, such as, in the case of a water-supply scheme, the pressure at which the water is delivered, the facilities for procuring water, the distance from the head-works, and the like.

Approved scheme to be published.

- **137F.** (1) When the scheme has been approved by the Local Government, there shall be published, in the Calcutta Gazette and locally in accordance with the provisions of section 354, the following particulars:—
 - (a) a general description of the scheme;
 - (b) an estimate of the cost of carrying it out;
 - (c) an estimate of the cost of maintaining it;
 - "(d) the source from which the cost will be met;
 - (e) the amount of the loan, if any, the annual instalments by which it will be repayable, and the number of years required to repay it;
- and, where several local authorities are concerned,
- (f) the distribution of the loan;
- and

 (2) where the scheme is for providing or improving the water-supply, the following additional particulars in respect of each municipality concerned:—
 - (a) the total annual charge to be incurred by reason of the water-supply and to be met by a water-rate;

11 of 1879.

(Part II. -Of the Municipal Authorities. - Secs. 37G-37K.)

(b) the percentage of such water-rate on the annual value of holdings:

(c) the average incidence of such water-rate per head of the

population.

137G. After the expiry of two months from the date of such sanction of publication, and after considering any objections or suggestions that may be submitted, the Local Government may sanction or reject the scheme as published, or may refer it, with such suggestions as it may think fit, to the Sanitary Board, who, in consultation with the same Committee as aforesaid, shalla consider the scheme with a view to its amendment, and when the scheme shall have been so considered, it shall be forwarded to the Local Government, and the provisions of this and the last preceding section shall be applied.

137H. When a scheme has been sanctioned by the Local Scheme to be Government under the last preceding section, the Commismunistically municipally sioners of the municipality or municipalities, or the local ties. authorities concerned shall, if the rate and other monies to be collected, received or recovered for or in respect of the watersupply or drainage system be sufficient for the purpose, proceed to carry it out, and where two or more municipalities or local authorities are concerned, a Joint-Committee may be formed for that purpose according to rules to be framed in this behalf by the Local Government.

¹37-1. The Local Government may order the works specified Local Governin any scheme, plans, specifications and estimates, or any appoint an portion thereof, to be executed by an officer to be appointed by officer to it, and shall fix the remuneration of such officer (provided that execute the cost of the selection of such officer (provided that works the cost of the scheme as sanctioned be not exceeded): and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

137J. The cost of making plans, specifications and esti- Cost of the mates, and the travelling expenses incurred by the members of scheme may be advanced by the members of scheme may be advanced. the committee in attending the meetings of the Sanitary Board in for the consideration of the scheme, and the cost of carrying public tunds. out the scheme if the same be proceeded with, may be advanced from the public funds on the security of the fund or funds of the municipality or municipalities or other local authority or authorities concerned, and shall be recoverable under 'the Local Authorities Loan Act, 1879,] and all the provisions of that Act, and the rules made under it referring to the recovery of loans, shall be applicable to such advances.

¹ 37K. (1) When it appears to the Local Government that compulse the Commissioners of any municipality, or the Commissioners of water. of a municipality, acting conjointly with the Commissioners of supply

¹ See foot-note ¹ on page 727, απέε.
.² The words and figures "the Local Authorities Loan Act, 1879," were substituted for the words and figures "the Loans Act of 1879" by the Amending Act, 1897 (b of 1897), Sch. II—see Vol. I of this Code. The Local Authorities Loan Act, 1879 has since been repealed and re-enacted by the Local Authorities Loans Act, 1914 (9 of 1914), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

(Part 11.-Of the Municipal Authorities.-Sec. 37L.)

any other municipality or municipalities or with one or more of any other local authorities specified in section 37A, should be required to provide a supply of water for domestic purposes, or to introduce a system of drainage, it may call upon such Commissioners to show cause within a specified time why they should not be so required, and the Local Government shall consider any objections which may be submitted by the Commissioners, and, if it considers such objections insufficient, it may, after publishing in the Calcutta Gazette a full statement of the reasons which have led to action being taken, by an order in writing, fix a time within which the Commissioners shall submit such a scheme, plans, specifications and estimates as are referred to in section 37 B, in the manner therein provided:

Provided that when the Commissioners of one municipality are required to show cause, as aforesaid, a resolution against the introduction of such scheme passed at a meeting specially convened for the purpose, in favour of which a majority of not less than two-thirds of the whole number of Comm ssioners shall have voted, or when the Commissioners of two or more municipalities are required to act conjointly with each other for that purpose, a similar resolution passed by the Joint-Committee constituted under section 37 A. in favour of which a majority of not less than two-thirds of the total number of votes allotted to such municipalities and apportioned to each of them, according to their respective incomes shall have been recorded, shall be final, and in either case no further action shall be taken by the Local Government under the provisions of this section.

(2) When the said order has been complied with, the provisions of sections 37 C to 37 J inclusive shall apply.

(3) If default is made in complying with the said order, the

provisions of section 64 shall apply:

Provided that in the case of a municipality mentioned in the first Schedule and not required to act conjointly with any other municipality or local authority, if within two months from the date of the publication of the particulars of any such scheme in the Calcutta Gazette under section 37 F, a petition is presented to the Local Government by a majority of not less than two-thirds of the registered rate-payers of a municipality objecting to the compulsory introduction of such scheme into such municipality, the Commissioners thereof shall not be compelled to carry out such scheme.

1371. The provisions of Part VII shall, notwithstanding anything in section 86, 220, 221, 222, 223, 279 or 287, apply to

^{\$}The original section 27L was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ban. Act 2 of 1894), s. 23. The present s. 37L was substituted for it by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 4, in Vol. III of this Code. The original section ran thus:—

aums—"The provisions of Part VII shall apply to finy municipality in which a water-supply shall have been provided."

(Part II.-Of the Municipal Authorities.-Sect. 37M-42.)

every municipality in which a water-supply is provided under section 37 K.

*37 M. The powers conferred on the Commissioners by Chair sections 37 A to 37 L inclusive shall not be exercised by the powers. Chairman under section 44.

Of the Mode of transacting the Business of the Municipality.

38. The Commissioners shall meet for the transaction of stopers business (if there be any business to be transacted) at their to meet office, or at some other convenient place, at least once in every once a mouth. month, and as often as a meeting shall be called by the Chairman, or, in his absence, by the Vice-Chairman.

If there shall be no business to be laid before the Commissioners at any monthly meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each Commissioner three days before the date which is appointed for the monthly meeting.

²[Accidental omission to serve notice of a meeting on any Commissioner shall not affect the validity of a meeting.]

39. The Chairman, or, in his absence, the Vice-Chairman shall call a special meeting on a requisition signed by not less than three of the Commissioners.

³[If the Chairman or the Vice-Chairman fails to call a special meeting within thirty days after any such requisition has been made, the meeting may be called by the persons who signed the requisition.]

40. The Chairman, or, in his absence, the Vice-Chairman Who to shall preside at every meeting, and, in the absence of both the meetings of Chairman and Vice-Chairman, the Commissioners shall choose the Commissioners. Chairman and Vice-Chairman, the Commissioners shall choose some one of their number to preside.

41. All questions which may come before the Commissioners at a meeting shall be decided by a majority of votes, majority. unless otherwise provided in this Act.

In case of equality of votes, the President shall have a Custing vote second or casting vote.

42. No business shall be transacted at any meeting of the Quorum. Commissioners unless such meeting has been called by the Chairman or Vice-Chairman, '[or, under section 39, by persons signing a requisition,] nor unless a quorum shall be present.

Meeting not invalidated by non-service Commission ers to meet at requisition.

¹ See foot-note 1 on page 727 ante,

a This paragraph in equare brackets in s. 38 was added by the Bengal Manisipal (Amendment)

Act, 1894 (Ben. Act 4 of 1894), s. 24, in Vol. III of this Code.

a This paragraph in equare brackets in s. 89 was added by the Bengal Manisipal (Amendment)

Act, 1896 (Ben. Act 2 of 1896), s. 5, in Vol. III of this Code.

4 The words and figures "or, under rection 98, by persons signing a requisition, vin s. 42, were inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 6 (I), in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 48-46.)

A quorum shall be, in any municipality in which the Commissioners are more than fifteen, five:

in any other municipality, a number being not less than

one-third of the entire number of Commissioners.

Adjourned ting.

If, at the time appointed for a meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the '[President], and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Minutes of Proceedings.

43. Minutes of the proceedings of all meetings of the Commissioners shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting, and such book shall be open to the inspection of the taxpayers.

Powers of Chairman.

44. The Chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the Commissioners:

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Commissioners at a meeting, or exercise any power which is directed to be exercised by the Commissioners at a meeting.

45. The Chairman may, by a written order, delegate to the Vice-Chairman all or any of the duties or powers of a Chairman as defined in this Act, subject to such restrictions as may seem fit to him, and may at any time by a written order withdraw or modify the same:

Provided that nothing done by the Vice-Chairman which might have been done under the authority of a written order from the Chairman, shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the Chairman previously or subsequently obtained.

***46.** The Commissioners at a meeting shall from time to time decide whether a paid Secretary, Engineer, . ** Health officer for Assessor] is required or not, and what number of subordinate officers, servants and collectors of taxes or tolls may be necessary for the municipality, and shall from time to time fix the salaries to be paid to such persons respectively out of the municipal fund, and the allowances to be granted to such persons during absence on leave.

tident ", in s. 42, was substituted for the words "Chairman or Vice-Chairman " ipal (Amandment) Act, 1896 (Ben. Act 2 of 1896), s. 6 (2), in Vol. III of this

As to the application of s. 46 to the Registrar of Hackney-carriages, see the Calcutta Hackney-fe Ant, 1891 (Ben. Act 2 of 1891), s. 5 (3), and foot-note thereto, in Vol. III of this Code. The word "or ", is s. 46, was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. 4 1894), S. 3, and is contisted. am a w meep, a m, non no omnuse.

a The white " or assessor ", in a 45, were inserted by the Bengal Municipal (Amendment) Act,
1984 (Ban. Act 4 of 1884), a 35, in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 47-50.)

Subject to the scale of establishment decided upon by the Commissioners under this section, the Chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their places:

Provided that no person shall be appointed to an office the salary of which is fifty rupees per mensem or upwards, without the sanction of the Commissioners at a meeting, and that no officer, whose salary is more than twenty rupees per mensem, shall be dismissed without such sanction.

47. The Commissioners at a meeting, specially convened com for the purpose, may, by a resolution in favour of which not may frame rules for penetral than two-thirds of the Commissioners present at such sions and grame meeting shall have yoted from time to time make rules! for this or for the commissioners are such sions and grame to time make rules! meeting shall have voted, from time to time make rules for-

(a) the granting of pensions and gratuities out of the aprovident or annuity fund. municipal fund; or

(b) the creation and management of a provident or annuity fund for compelling contribution thereto on the part of their officers and servants, and for supplementing such contribution out of the municipal fund;

and may repeal or alter such rules.

The Commissioners at a meeting may, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities, or grant allowances or annuities out of such provident or annuity fund to any of their officers or servants, as they may see fit.

48. In the case of a Government official employed by the Pension, etc. Commissioners, the Commissioners may-

- (1) if his services are wholly lent to them, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes' for the time being in force; and
- (2) if he devotes only a part of his time to the performance of duties in behalf of the Commissioners, contribute as above in such proportion as may be determined by the Local Government.
- 49. The Commissioners may take such security as they security from may think proper from any officer or servant in their employ.

Of Ward Committees.

50. The Commissioners at a meeting may divide any Am municipality into wards, and thereupon appoint, or cause to be elected for each ward, not less than three proper.

For a list of rules made under s. 47 for Bengal as constituted on the 51st March, 1912, see the gal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

See now the Civil Service Regulations, 5th edition, 1910.

(Part II.-Of the Municipal Authorities.-Secs. 51-56.)

persons, whether such persons by or be not Commissioners for the time being, to by members of the Ward Committee; and the Commissioners at a meeting may define the limits of the ward for which any Ward Committee may be appointed or elected.

51. The Commissioners at a meeting may lay down rules, not being inconsistent with the provisions of this Act, in respect of the qualifications required to entitle any person who is not a Commissioner to stand as a candidate for such election, and to entitle any person to vote for any candidate, and in respect of the mode of election.

And the Commissioners may at any time cancel any rule made by them under this section for such election.

52. Each Ward Committee may, for each year if it sees fit, elect its own Chairman and Vice-Chairman (if necessary) from among its own number:

Provided that, if one or more Commissioners are members of the Ward Committee, the Chairman of the Ward Committee shall be a Commissioner.

53. The Commissioners at a meeting may delegate to a Ward Committee such of the powers of Commissioners under this Act as to them may seem fit; and such Ward Committee within the limits of its ward, as defined by the Commissioners at a meeting, may exercise all or any of such powers, and shall be liable to all the obligations imposed by this Act on Commissioners in respect of such powers.

All acts done, orders issued and assessments made, by Ward Committees, shall be subject to the control and revision of the Commissioners at a meeting, who may at any time withdraw

all or any of such powers.

54. The provisions of sections 38 to 45 (both inclusive) shall, as far as possible, be applicable to the transaction of business by Ward Committees, and the Commissioners shall sanction the establishment of Ward Committees in accordance with the provisions of section 46.

55. All questions regarding the removal, resignation and appointment of members of Ward Committees shall be settled by the Commissioners at a meeting.

Liability of Commissioners and Ward Committees.

56. No Commissioner or member of a Ward Committee shall be personally liable for any contract made, or expense incurred, by or on behalf of the Commissioners.

Every Commissioner or member of a Ward Committee shall be personally liable for any wilful misapplication of money entrusted to the Commissioners to which he shall knowingly have been a party, and he shall be liable to be sued for the same.

Commissioners may lay do wn rules for election.

Election of Chairman and Vice-Chairman of Ward Committee.

Commissioners may delegate power to Ward Committee.

Certain sections applicable to transaction o business by Ward Committees.

Removal, resignation and appointment of members.

Personal inhility of Commissioner or minibur of Ward Commistee.

(Part 11.-Of the Municipal Authorities.-Secs. 57-59.)

57. No Commissioner or member of a Ward Committee Disqualifica *1 any share or interest tien of shall have, directly, or indirectly, * in any contract sof any kind whatsoever to which the Commissioners are a party, or shall hold any office of profit interest in under them.] and if any Commissioner shall have such share contracts. or interest ³[or shall hold such office] he shall thereby become disqualified to continue in office as Commissioner, and shall be liable to a fine not exceeding five hundred rupees:

 [Provided that] a Commissioner shall not be so disqualified by reason only of his having a share or interest in-

- (a) a contract entered into between the Commissioners and any incorporated or registered company of which such Commissioner is a member or shareholder; or
- (b) any lease, sale or purchase of land, or any agreement for the same; or
- (c) any agreement for the loan of money, or any security for the payment of money only; or
- (d) any newspaper in which any advertisement relating to the affairs of the municipality is inserted.

But no such Commissioner shall act as Commissioner or member of a Ward Committee, or take part in any proceedings relating to any matter in which he is so interested.

58. No Commissioner or member of a Ward Committee Comm shall vote on any matter affecting his own conduct or disqualts pecuniary interest, or on any question which regards exclusively from the assessment of himself, or the valuation of any property in respect of which he is directly or indirectly in any way questions interested, or of any property of or for which he is manager or agent, or his liability to any tax.

Control.

59. All resolutions passed by the Commissioners under the Cortain resolutions following sections, that is to say:-

(a) under section 23 [or 27], for the election of a Chairman:

¹ The words "by himself or through others," in s. 57, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, and are omitted.

² These words in aquare brackets, in s. 57, were substituted for the words "made with the Commissioners" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

² The words "or shall hold such office," in s. 57, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

⁴ The words "Provided that", ir s. 57, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 25, in Vol. III of this Code.

⁴ This section was substituted for the original s. 56 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 27, in Vol. III of this Code.

"As No Commissioner or member of s. Ward Committees shall yote on any question which se-

[&]quot;88. No Commissioner or member of a Ward Committee shall vote on any question which ap-gards exclusively the assessment of himself, or the valuation of his property, or of the property for which he is manager or agent or his liability to any tex."

The word and figures "or 27," in a 30, were inegred by the Bengul Municipal (Amendment) Aut, 1894 (Ben. Act 4 of 1894); s. 36; in Vol. III of this Cuse.

(Part II.-Of the Municipal Authorities-Secs. 60-63.)

- (b) under section 24, for the removal of a Chairman from office:
- (c) under section 28, for the grant of allowances to a Chairman or Vice-Chairman;
- (d) under section 47, for the making, repeal or alteration of rules for the grant of pensions or gratuities, or for the creation and management of provident or annuity funds,

shall be subject to the approval of the Local Government.

opy of sinutes to be ent to Ingistrate.

- **60.** A copy of the minutes of the proceedings of all meetings of the Commissioners referred to in section 43 shall be forthwith forwarded by the Commissioners to the Magistrate of the district.
- anction to ppointment i subordinate
- **61.** The appointment by the Commissioners of subordinate officers, as provided by section 46, shall be subject to the following rules:—
 - (a) no appointment, of which the salary 's two hundred rupees per mensem or upwards, shall be created or abolished, without the sanction of the Local Government:
 - (b) no person shall be appointed to, or dismissed from, an office, the salary of which is one hundred rupees per mensem or upwards without the sanction of the Commissioner of the Division.

fagistrate's ower of aspection. 62. The Magistrate of the district, or the Magistrate in charge of the division of the district in which a municipality is situate, may enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by the Commissioners, or any work in progress under their direction; and may call for and inspect any document which may be, for the purposes of this Act, in the possession or under the control of the Commissioners.

Power to suspend sotion under ket. 63. The Commissioner of the Division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the Commissioners of any municipality, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it

(Part II.—Of the Municipal Authorities.—Secs. 64-66.)

continue in force with or without modification, permanently or

for such period as it thinks fit.

64. If at any time it appears to the Local Government, on Powers of the report of the Magistrate of the district or of the Commissioner Govern of the Division, that the Commissioners of any municipality have made default in performing any duty imposed on them by or under this or any other Act, the Local Government may, by an order in writing, fix a time for the performance of that

If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the District to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate from the municipal fund.

If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible from the balance, in priority to any or all other charges against the same.

65. If, in the opinion of the Local Government, the Com- Power to missioners of any municipality are not competent to perform, or persistently make default in the performance of the duties in case of imposed on them by or under this Act or otherwise by law, or default or exceed or abuse their powers, the Local Government may, by abuse of an order published, with the reasons for making it, in the Calcutta Gazette, declare such Commissioners to be incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order.

supersede Commissioners

66. When an order of supersession shall have been passed Consequences under the last preceding section, the following consequences slon. shall ensue :-

- (a) all the Commissioners shall, as from the date of the order, vacate their offices as such Commissioners:
- (b) all the powers and duties of the Commissioners 1 shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may direct;
- (c) all property vested in such Commissioners shall, during the period of supersession, vest in the Government.

¹ Section 2 of the Bengal Municipal (Amendment and Validation) Act, 1910 (Ben. Act 2 of 1910, Vol. III of this Code), which originally applied to Western Bengal only, but sections 1 and 2 of hich were extended to Western Bengal by Ben. Act 1 of 1914, sec. 3, Sch. 1, runs thus:—

"2. The expression "all the powers and duties of the Commissioners" in clause (6) of section 66 of the Bengal Municipal Act, 1884, shall include, and shall be deemed always to have included, no wega and duties which may be exercised and performed at a meeting of the Commissioners, as well as powers and duties which may be exercised and performed other wise than at such a meeting."

Disputes.

(Part II.—Of the Municipal Authorities.—Part III.—Of the Municipal Fund.—Secs. 66A, 67.)

On the expiration of the period of supersession specified in the order, it shall be lawful for the Local Government to direct that the municipality shall be entered in the first Schedule or the second Schedule, or in both the first and second Schedules; but otherwise the Commissioners shall be re-established by appointment and election, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for appointment or election.

Act does not otherwise provide, arises between the Commissioners of two or more municipalities constituted under this Act, or between the Commissioners of any such municipality and a District Board, or Cantonment Authority, the matter

shall be referred-

(a) to the District Magistrate, if the local authorities concerned are in the same district; or

- (b) to the Commissioner or Commissioners of the Division or Divisions, if the local authorities concerned are in different districts; or
- (c) to the Local Government, if the local authorities concerned are in different Divisions and the Commissioners of those Divisions cannot agree.
- (2) The decision of the authority to which any dispute is referred under this section shall be final.
- (3) If, in the case mentioned in clause (a), the District Magistrate is a member of one of the local authorities concerned, his functions under this section shall be discharged by the Commissioner of the Division.

PART III.

OF THE MUNICIPAL FUND

What shall constitute the Municipal Fund. 67. All sums received by the Commissioners, and all fines paid or levied in any municipality under this Act, and all other sums which, under the sanction of Government, may be transferred to the Commissioners, shall constitute a fund which shall be called the "Municipal Fund," and shall, together with all property of every nature or kind whatsoever which may become vested in the Commissioners, be under their control,

¹ For orders issued under section 66 for Bengal as constituted on the Sist March, 1912, ass the Bangal Local Statutory Rules and Orders, 1912, Vol. I. Pt. VI.

Election 65A was inserted by the Bengal Manicipal (Amendment) Act, 1894 (Ban. Act 4 of 1984), a. Sh. in Vol. III of this Gote.

Election to the Control of the Sister of the Marches Manicipal (Potts Act, 1885, Act, 1886, Act,

bf:1084.]

(Part III.—Of the Municipal Fund.—Secs. 68, 69.)

and shall be held by them in trust for the purposes of this

68. [Except as is otherwise provided in this Act,] the Payment on Commissioners shall set apart and apply annually out of the interest on municipal fund-

establishment.

- (a) firstly, such sum as may be required for the payment of the interest which may fall due on any loan contracted by the Commissioners;
- (b) secondly, such sum as they are by this Act required to provide for payment of their own establishment, including such contributions as are referred to in section 48;
- (c) thirdly, such sum as the Local Government may direct towards the cost of audit. * *2 towards the cost of establishments in any office of account or in any treasury [and towards the salary of any special officer who may be appointed under section 82]:

Provided that the total amount which any municipality may be required to pay under clause (c) '[otherwise than as the salary of a special officer appointed under section 82] shall not in any year exceed two per centum on the amount of the municipal income for such year.

69. (1) After the said sums have been set apart under Purpos section 68, the Commissioners at a meeting shall, as far as the municipal fund permits, from time to time cause roads, bridges, tanks, ghats, wells, channels, drains and privies, being the property of the Commissioners, to be maintained and repaired, and the municipality to be cleansed;

and may, except as is otherwise provided in this Act, and subject to such rules and restrictions as the Local Government may from time to time prescribe, apply the municipal fund to any of the following purposes within the municipality, that is to say,-

(i) the construction, maintenance and improvement of roads, tramways, bridges, squares, gardens, tanks, ahats, wells, channels, drains and privies;

(ii) the supply of water, and the lighting and watering of roads;

¹ The words "Except as is other wise provided in this Act," in s. 68, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (1), in Vol. III of this Code.

1 The word " and", in s. 68 (c) was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (2), and is omitted.

2 These words and figures in square brackets in s. 68 (c) were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (2), in Vol. III of this Code.

4 These words and figures in square brackets in the provise to s. 68 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (3), in Vol. III of this Code.

4 The sections 69, 69A and 69B were substituted for the former sections 69 by, the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1894), s. 7, in Vol. III of this Code.

5 For lists of rules made under section 69 for Bengal as constituted for the 31st March, 1973, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part III.—Of the Municipal Fund.—Sec. 69.)

(iii) the erection and maintenance of offices and other buildings required for municipal purposes;

(iv) the construction and repair of school-houses, either

wholly or by means of grants-in-aid; (v) the establishment and maintenance of schools, either

wholly or by means of grants-in-aid; (vi) the establishment and maintenance of hospitals and

dispensaries;

(vii) the promotion of vaccination;

(viii) the acquiring and keeping of open spaces for the promotion of physical exercise and education;

(ix) the training and employment of female medical practitioners and of veterinary practitioners;

(x) the establishment and maintenance of veterinary dispensaries for the reception and treatment of horses, cattle and other animals;

(xi) the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals;

(xii) the improvement of the breed of horses, cattle and asses, and the breeding of mules;

(xiii) the establishment and maintenance of free libraries:

(xiv) the maintenance of a fire-brigade;

(xv) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants;

(xvi) the establishment and maintenance of benches for the trial of offences under this Act or any by-laws made thereunder, and

(xvii) generally, to carrying out the purposes of this Act:

Provided that no portion of the municipal fund shall be applied to any of the purposes specified in clauses (viii) to (xiii) (both inclusive), unless a majority of the Commissioners present at the meeting are satisfied that the other purposes specified or referred to in this sub-section, or such of them as the majority consider it necessary to carry out, have been sufficiently provided for.

(2) The Municipal Fund shall also be applicable to the payment, at such rates as the Local Government may from time to time direct, of travelling expenses incurred by any of the Commissioners in attending meetings convened under the rules made by the Local Government in pursuance of sub-section (4) of section 1 of the Indian Councils Act, 1892, for the 1554 to Victor purpose of recommending a person to be nominated as a member of the Lieutenant-Governor's Council.

As to the meaning of the expression "medical practitioners" generally, as the Bengal Medical Act, 1914 (Ben. Act 8 of 1914), a. 80, in Vol. III of this Code.

Saction 1 of the Indian Councils Act, 1892, has been repealed by a. 8 (3) of the Indian Councils Act, 1909 (B May 7, c. 4).

The Lieutenant-Governor's Council has coased to exist.

(Part III.-Of the Municipal Fund.-Secs. 69A-70.)

.(3) The Commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

1 69A. (1) The Commissioners shall cause to be kept, for Receipts and expenditure each hospital and dispensary vested in them, accounts, in on scounts such form as may be prescribed by rules made by the Local and dispensions. Government, showing-

- (a) all endowments, funds and contributions received by them.
- (b) all sums directed by them to be applied to establishment or maintenance, and

(c) all expenditure incurred by them.

- (2) No money which has been received by the Commissioners on account of any hospital or dispensary, or directed by them to be applied to the establishment or maintenance of any hospital or dispensary, shall be expended on any other object.
 - ¹ **69B.** The Local Government may from time to time Power to make rules. make rules --

- (i) prescribing the qualifications of candidates for employment under clause (xi) of section 69; and
- (ii) generally, for the guidance of the Commissioners in .all matters connected with the carrying out of the purposes of sections 69 and 69A.

70. With the consent of two-thirds of the Commissioners Expenditure obtained in writing, and with the sanction of the Local Government, the Commissioners may contribute a portion of the municipal fund towards the expenses incurred in any other municipality or elsewhere, for any of the purposes mentioned in [section 69, sub-section (1)], or towards the salary of any officer under another authority whose services are employed by them; and also towards the expenses of making, maintaining and repairing any work for the improvement of a river or harbour (by whomsoever such work may be done).

But no contribution shall be made under this section to any work unless the same is calculated to benefit the inhabitants of

the contributing municipality.

'[Notwithstanding anything in this section, the municipal fund may be applied, by the vote of the majority referred to in the proviso to section 69, sub-section (1), and without the consent and sanction mentioned in this section, to meeting expenses incurred beyond the limits of the municipality in the

municipality.

 ¹ See foot-note on page 789, and.
 2 For lists of rules made under section 69 B for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, 70. I. Pt. VI.
 3 The words and figures "section 69, sub-section (1)", in a 70, were substituted for the words, "the last preceding section" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1898);
 a. S (1), in Vol. III of this Code.
 4 This paragraph was added by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), a. S (3), in Vol. III of this Code.

(Part III.-Of the Municipal Fund.-Secs. 71-76.)

training of female medical practitioners or of veterinary practitioners.]

71. The account-books of the municipality shall be open to the inspection of any tax-payer at the office of the Commissioners on a day or days to be fixed in each month.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and shall, with the account-books, be open to the inspection of any tax-payer.

A similar account shall be prepared for each year as soon as possible after its close, and shall be open to inspection as aforesaid.

72. The Commissioners, at a meeting held at least two months before the close of the year, shall prepare in detail estimates showing the probable receipts and expenditure during the ensuing year and the objects in respect of which it is proposed to incur such expenditure.

73. Copies of the estimates and translations thereof in the vernacular of the district shall be lodged in the office of the Commissioners.

During fourteen days after the estimates shall have been so lodged in the said office, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any tax-payer of such municipality who may desire to inspect the same.

Any written suggestion which may be deposited in the office of the Commissioners shall be recorded and laid before them for consideration at the next meeting.

74. After the expiration of the said fourteen days, and after such revision as may appear requisite, the estimates shall be transmitted to the Magistrate of the district.

75. The Magistrate may either forward the estimates to the Commissioner of the Division, or may return them to the Commissioners with such remarks and suggestions as he shall think fit to record. And the Commissioners at a meeting shall take into consideration the Magistrate's remarks, and shall either adopt his suggestions or shall record in writing their reasons for refusing to do so: and the estimates shall thereupon be returned to the Magistrate for transmission to the Commissioner of the Division.

76. The Commissioner of the Division may either sanction the estimate as it stands * * * * or may cause it to be returned to the Commissioners for such modifications as he may think necessary; and, when such modifications have been

1.As fo the meaning of the expression "medical practitioners" generally, see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), 6.30, in Vol. III of this Code.

The words "or sanction it after making such afterations therein as may seem to him fit," in 1.76, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 32 and are emitted.

Account books to be kept open and quarterly statement published.

Annual estimates to be prepared.

Estimates to be published.

Estimates to be transmitted to Magistrate.

Magistrate Magistrate may record

Powers of Commissione as to estimates.

(Part III.—Of the Municipal Fund.—Secs. 77-80.)

made, the estimate shall be re-submitted for ratification to the Commissioner of the Division, 1 [or if such modifications as may be recommended are not made, it shall be open to the Commissioner of the Division to make such alterations as may seem to him fit]:

Provided that the Commissioner of the Division shall not raise the total of the proposed expenditure above the sum shown by the estimate to be at the disposal of the Commis-

77. The Commissioners at a meeting may, from time to Estimate of expenditure with the view of expenditure time, revise any estimate of expenditure with the view of providing for any modifications which they may deem it revised. advisable to make in the appropriation of the amount at their disposal, and such revised estimate shall be published and forwarded in the manner bereinbefore prescribed; and the Magistrate and the Commissioner of the Division may deal with such revised estimate in the manner provided above.

78. After the estimates of the municipality for the year Disbursement shall have been sanctioned as above, the Commissioners at a of expenditure sancmeeting may, from time to time, by a general or a special tioned in resolution, authorize the expenditure of any sum provided in such estimates, or any part of suclesum, for the purpose to which it has has been assigned in such estimate.

Notwithstanding anything contained in this section, the Local Government may lay down such rules? as it may think fit, limiting or regulating the powers of any municipality in respect to the expenditure of money for purposes which are provided for in the budget estimates of the year.

79. If any work is estimated to cost above five thousand Power of rupoes, the Local Government may require the plans and estimates of such work to be submitted for its approval, or for the work estiapproval of any officer of Government, before such work is more than commenced; and may require statements of the progress and systhom from the commenced. completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as it may prescribe, for its approval, or for the approval of such officer.

80. It shall not be lawful for the Commissioners to author- Disbursement ize the expenditure on any object during the year of a sum in expenditure. excess of that which has been sanctioned in the estimate of the year, or in a revised estimate, for such object, but, if it be found necessary in the course of the year, the Commissioners may recommend to the Commissioner of the Division that the allotments which have been made to the different heads of the estimate shall be modified by transfer of any amount from one head to another, and the Commissioner of the Division may sanction such transfers of allotment.

¹ These words in square brackets in a, 76 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 32, in Vol. III of this Oods.
⁸ For rules made under s. 78 for Bengal assonations on the Sist March, 1912, see the Sangal Local Stautory Rules and Orders, 1912, Val. I, Pt. VI.

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(Part III.-Of the Municipal Fund.-Secs. 81-84.)

An annual report of proceedings, atc., to be submitted.

81. The Commissioners shall, at such time and in such form as the Local Government shall direct, furnish annually a report of their proceedings and statements of the works executed by them, and of all sums received and expended by them.

The report and any orders which may be passed thereon by Government shall be open to the inspection of the tax-payers at the office of the Commissioners with the account-books and

the quarterly and the annual accounts.

Keeping of registers and submissioners shall keep such registers, use such forms and submit such returns as the Local Government may from time to time prescribe.

(2) The municipal accounts shall be audited each year in

such manner as the Local Government may direct?:

Local
Government
may appoint
special officer
to examine
and report
upon
accounts.

Provided that if the officer appointed to make the yearly audit in any municipality shall report that the accounts are in such confusion that the financial position of the municipality cannot readily be ascertained, the Local Government may, by an order in writing, require the Commissioners to submit, within a time and to a person to be specified in such order, the accounts duly adjusted; and, if the Commissioners fail to comply with such order, the Local Government may appoint a special officer to examine and report upon the accounts, and shall fix the salary of such special officer, which salary shall be paid from the municipal fund, unless the Local Government shall otherwise direct.

Custody of the municipal fund. 83. Unless the Local Government shall otherwise direct, all sums received on account of the municipal fund shall be paid into a Government treasury, or into any bank or branch bank used as a Government treasury in or near to the municipality, and shall be credited to an account to be called the account of the municipality to which they belong:

Provided that the Commissioners may invest any moneys not required for immediate use either in Government securities, or in any other form of security which may be approved

of by the Local Government.

\$4. Unless the Commissioner of the Division shall expressly extend (as he is hereby empowered to do, on the recommendation of the Commissioners at a meeting) the limit of the powers of the Chairman or Vice-Chairman in this behalf, all orders for the payment of money from the municipal fund, if for a sum not above five hundred rupees, shall be signed by the Chairman or Vice-Chairman; and all orders for larger sums

payment of money from manicipal fund.

¹⁸ This section was substituted for the original section \$2 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 38, in Vol. III of this Code., The original section ran as follows—

[&]quot;83. The municipal accounts shall be kept in such form, and shall be audited each year in a such manner, as the Local Government shall direct."

5 For a list of raise made under section 82 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

5 For appointments stade under section 83 for Bengal as constituted on the Sist March 1912, as the Edmail Local Statutory Eules and Orders, 1922, Vol. I, Pt. VI.

(Part IV.—Of Municipal Taxation.—Secs. 85, 86.)

by both of the said officers or by one of the said officers and another Commissioner.

No such orders shall be issued otherwise than for the payment of money of which the expenditure has been authorized by the Commissioners at a meeting, as provided in section 78.

PART IV.

OF MUNICIPAL TAXATION.

35. The Commissioners may, from time to time, at a meet- Tax upon ing convened expressly for the purpose, of which due notice persons of which due notice holdings. shall have been given, and with the sanction of the Local Government impose within the limits of the municipality. one or other [or] both, of the following taxes:—

(a) a tax upon persons occupying holdings within the municipality according to their circumstances and property within the municipality:

Provided that the amount assessed upon any person in respect of the occupation of any holding shall

not be more than eighty-four rupees per annum; or (b) a rate on the annual value of situated within the municipality:

Provided that such rate shall not exceed seven and a half per centum on the annual value of such holdings except within the municipalities of Howrah, [Patna.] Dacca and Darjeeling, in which it shall not exceed ten per centum on such annual value: and provided also that no rate shall be imposed on any holding of which the annual value is less than six rupees:

[Provided that both the taxes shall not be in force at the same time in the same ward.]

86. The Commissioners may, from time to time at a additional meeting convened as aforesaid, and with the sanction of the Local Government, order that the following tax, fee, tolls and rates, or any of them, be levied within the limits

¹ For lists of orders made under section 85 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

3 This word "or", in a. 85, was substituted for the words "but not" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 34, in Vol. III of this Code.

3 The word "all", in a. 85 (b), was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 34, in wol. III of this Code.

4 The words "Howrsh, Patna," in a. 85 (b), were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 34, in Vol. III of this Code.

5 This proviso was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 34, in Vol. III of this Code.

6 For lists of orders made under section 36 for Bengal as constituted on the 5jst March, 1813, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part IV.-Of Municipal Taxation.-Sec. 87.)

of the municipality in addition to either of the taxes mentioned in the last preceding section:—

(a) a tax on carriages, horses and other animals named in the fifth Schedule;

(b) a fee on the registration of carts;

- (c) tolls on ferries, and (subject to the provisions of sections 158 and 159) tolls upon bridges and metalled roads;
- (d) a water-rate not exceeding ¹ [seven-and-a-half] per centum on the annual value of holdings when the houses and lands are situated in streets supplied with water, and not exceeding ¹ [six] per centum when the houses and lands are situated in streets not so supplied:
- (e) a lighting-rate not exceeding three per centum on such annual value;
- (f) a fee for the cleansing of latrines:

Provided that the taxes mentioned in clauses (d). (e) and (f) shall not be levied in any municipality unless the provisions of Part VII in respect of clause (d), or of Part VIII in respect of clause (e), or of Part IX in respect of clause (f), shall have been extended wholly or partly to such municipality in the manner hereinafter provided.

Of the Tax on Persons 2.

Assessment list to be prepared.

- 87. When it has been determined that a tax shall be imposed on persons occupying holdings within the municipality, according to their circumstances and property, the Commissioners, after making such inquiries as may be necessary, shall cause to be prepared an assessment list which shall contain the following particulars, and any others which the Commissioners may think proper to include:—
 - (a) name of the street or road in which the holding is situated;

(b) number of the holding on the register;

- (c) name of the person occupying the holding, whether such person be assessed or exempted from assessment:
- (d) description of the holding, and of the property within the municipality, and the profession or business of the person assessed;

[&]quot;fire", respectively, by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), 85, in Vol. III of this Code.

* As no the imposition of this tax, see a. 35, ans., p. 745,

(Part IV.-Of Municipal Taxation.-Secs. 88-90.)

(e) amount of annual assessment;

(f) amount of quarterly instalment:
 (g) if the occupier of the holding is exempted from assessment, a note to that effect.

The tax upon persons shall be payable in quarterly instalments by persons occupying holdings.

Such tax shall not be assessed or levied on any person in respect of the occupation * * 1 of any building which is used exclusively as a place of public worship 2[or in respect of the occupation of any public burial or burning ground registered under section 254].

88. Save as is herein otherwise provided, every assessment of the tax upon persons shall take effect from the beginning of the year next following that in which the notice required by section 112 is published, and shall be valid for three years, and until the beginning of the year next after the date on which a new assessment or valuation may be published, or until the assessment and valuation be revised and amended:

Provided that, when this Act is extended to any place, the first assessment may take effect from the beginning of the quarter next following that in which the said notice shall be published.

89. In any municipality in which the tax on persons is Assessment of imposed, no tax shall be assessed on any person in respect of buildings. his occupation of any holding which *[contains any building] the property of Government *[or of a local authority], but a rate not exceeding seven-and-a-half per centum may be assessed on the annual value of every such holding, to be ascertained in the manner prescribed by section 101, and such rate shall be payable by Government for the local authority concerned].

90. Whenever any tax shall have been assessed on any Procedure if person in respect of his occupation of two or more holdings, amount of and the aggregate of the amount so assessed upon him shall exceed eighty-four rupees per annum, such person may, within fifteen days of the publication of the notice required by section eighty-four rupees per the Commissioners to suppose the property of the commissioners to suppose the commissioners the commissioners to suppose the commissioners to suppose the c 112, apply to the Commissioners to cancel such assessment, annum and to substitute for the total amount of tax so assessed upon him, in respect of the said holdings, a rate to be calculated.

¹ The words "of arable lands, or", in s. 87, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 36, and are omitted.

2 These words and figures in square brackets in s. 87 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1891), s. 36, in Vol. III of this Code.

3 The words "contains any building," in s. 89, were substituted for the word "in" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 37, in Vol. III of this Code.

4 The words "or of a local anthority," in s. 89, were substituted for the words "and used for the purposes of a public building" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 6 of 1894), in Vol. III of this Code

3 The words "or the local anthority conserved," in s. 89, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 87 (as partially repealed by Ben. Act 6 of 1894), in Vol. III of this Code.

(Part IV.-Of Municipal Taxation.-Secs. 91-96.)

at seven-and-a-half per centum on the annual value of such holdings; and the Commissioners shall thereupon substitute such rate; and, for the purpose of calculating the amount of such rate, shall determine the annual value of the said holdings in the manner prescribed by section 101.

Every rate imposed under this section shall be payable by

the occupier of the holdings so rated.

Power of exemption.

91. The Commissioners may exempt from assessment any person who may by them be deemed too poor to pay the tax; but the name of the occupier of every holding shall be included in the assessment-list, whether he be assessed or exempted from assessment.

Power to apply for reduction of massessment in altered circumstances. 92. If any person mentioned in the assessment-list shall, at any time after the publication thereof, have ceased to occupy any holding in respect of the occupation of which he has been assessed, or if the means and property in respect of which he has been so assessed shall have been reduced, the Commissioners may on his application exempt him from his assessment, or may revise the same; and such exemption or revision shall take effect from such date as the Commissioners may direct.

Power to alter

93. The Commissioners may, at any time after the publication of the notice required by section 112, assess any person who was without authority omitted from the assessment-list, or whose liability to assessment has accrued thereafter, and may enhance any assessment which appears to them to be inadequate, and to have been so made owing to mistake or traud.

Any assessment or enhancement made under this section shall take effect from the beginning of the quarter next following that in which such assessment or enhancement is made.

Procedure on change of occupation. 94. The Commissioners may at any time substitute for any name mentioned in the assessment-list the name of any new occupier of a holding, and may assess the tax on such person, and such person shall be liable to pay such assessment from the date on which his occupation of the holding commenced.

Assessment holdings when to cease.

95. If any holding shall become vacant in course of the year, assessment on account of the occupation of such holding shall cease to have effect from the first quarter next following that in which it became vacant.

Of the Rate on the value of Holdings.

Commissidners to determine the valuation of holdings. 96. When it has been determined that a rate shall be imposed on the annual value of holdings, the Commissioners, after making such inquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided.

(Part V.-Of Municipal Taxation.-Secs. 97-100.)

97. Save as is herein otherwise provided, such valuation Duration of shall be valid for '[five] years from the date on which it first takes effect in the municipality, and until the beginning of the year next after the date on which a new valuation may be made, or until the valuation be revised and amended.

2 97A. If, within the period prescribed in the last preced- Effect of ing section, the percentage on the valuation of holdings at percentage. which the rate is to be levied is altered by the Commissioners under the provisions of section 102, the amount of the rate and the amount of the quarterly instalments thereof payable in each case shall be altered accordingly in the rating list, but the Commissioners shall not thereby be deemed to have made a new or revised assessment-list.

98. The rate on the value of holdings shall not be assessed Holdings or levied on any holding which is used exclusively as a place exempled from lax. of public worship, or which is duly registered as a public burial or burning ground under section 251.

¹ [The Commissioners at a meeting may, with the sanction Exemption of the Local Government, exempt from assessment any holding holdings from bloddings from

used for purposes of public charity.]

99. The Commissioners, in order to prepare the valuationWhat estums list, may, whenever they think fit, by notice, require the quired for owners or occupiers of all holdings to furnish them with ascertaining returns of the rent or annual value thereof; and the Commissioners, or any person authorized by them '[in writing] in that behalf, at any time between sunrise and sunset, may enter, inspect and measure any such holding after having given fortyeight hours' previous notice of their intention to the occupier

⁵ [Provided that where an assessor is appointed, such assessor shall not be competent to authorize any other person

to enter, inspect and measure any such holding.]

100. Whoever refuses or fails to furnish any such return Penalty for default in for the space of one week from the day on which he shall have furnishing been required to do so, or knowingly makes a false or incorrect retarn. return, shall be liable to a fine not exceeding twenty rupees, and to a further daily fine not exceeding five rupees for each day during which he shall omit to furnish a true and correct return; and whoever hinders, obstructs or prevents any Commissioner, or any person appointed by the Commissioners as aforesaid, from entering, or inspecting, or measuring any such

¹ The word "five," in a. 97, was substituted for the word "three" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 88, in Vol. III of this Code.

1 Section 97A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 89, in Vol. III of this Code.

1 This paragraph was added to a. 98 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 40, in Vol. III of this Code.

1 The words "in writing", in a. 99, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 41, in Vol. III of this Code.

1 This proviso was added to a. 99 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 41, in Vol. III of this Code.

(Part IV.-Of Muricipal Taxation.-Secs. 101-103.)

holding shall be liable to a fine not exceeding two hundred

rupee

Annual value of holdings how to be ascertained.

101. The gross annual rent at which any holding may be reasonably expected to let shall be deemed to be the annual value thereof, and such value shall accordingly be determined by the Commissioners, and entered in the valuation-list:

Provided that, [except in the Darjeeling Municipality,] if there be on a holding any building or buildings the actual cost of erection of which can be ascertained or estimated, the annual value of such holding shall in no case be deemed to exceed an amount which would be equal to seven-and-a-half per centum on such cost, in addition to a reasonable ground-rent for the land comprised in the holding:

Provided also that, where the actual cost so ascertained shall exceed one lakh of rupees, the percentage on the annual value to be levied in respect of so much of the cost as is in excess of one lakh of rupees shall not exceed one-fourth of the percentage determined by the Commissioners under section 102:

Provided further that in estimating the annual value of a holding under this section, the value of any machinery that may be on such holding shall not be taken into consideration.

102. Subject to the provisions of section 85, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which the rate shall be levied, and the percentage so fixed shall remain in force until the order of the Commissioners determining such percentage shall be rescinded, and until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place, the first rate may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the

Commissioners at a meeting.

103. As soon as possible after the percentage at which the rate is to be levied for the next year shall have been determined under the last preceding section, the Commissioners shall cause to be prepared a valuation and rating list, which shall contain the following particulars, and any others which the Commissioners may think proper to include:—

- (a) name of the street or road in which the holding is situated;
- (b) number of the holding on the register;
- (c) description of the holding;
- (d) annual value of the holding;
- (a) name of owner;

of valuation and rating list.

Determination of rate of tax on

holdings.

1 The words "except in the Darjeeling Municipality", in s. 101, were inserted by the Benga Municipal (Amendment) Act, 1894 (Ben. Act 4-of 1894), s. 42, in Vol. III of this Code.

(Part IV.—Of Municipal Taxation.—Secs. 104-108.)

(f) amount of rate payable for the year:

(g) amount of quarterly instalment;

(h) if the holding is exempted from assessment, a note to that effect.

The rate upon holdings shall be payable in quarterly instalments by the owner of the holding.

104. If any house belongs to one owner, and the land on Power to which it stands and any adjacent land which is usually occupied therewith belongs to another, the Commissioners may lidated tax value such house and hard together and value such house and land together and may impose thereon land of one consolidated rate.

The total amount of the rates shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

If the owner of the house and the owner of the land do not agree in respect of the proportion of the rate so deducted by the owner of the house, the Commissioners shall, on the application of either party, make an award declaring the amount payable by each, and such award shall be final.

105. If the sum due from the owner of any holding Tax due from remains unpaid after the notice of demand has been duly non-resident served, and such owner be not resident within the municipality, recovered or the place of abode of such owner be unknown, the same may and deducted be recovered from the occupier for the time being of such by him from holding, who may deduct, from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Provided that no arrear of rate which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

106. Whenever, from the circumstances of the case, the Power of levy of the rate on any holding in the municipality would be stoners in productive of excessive hardship to the person liable to pay cases of exthe same, the Commissioners at a meeting may reduce the hardship. amount payable on account of such holding, or may remit the same.

107. If the value of any holding shall be diminished from Application any cause beyond the control of the owner thereof, the owner of assessthereof may apply for reduction of the valuation of the same.

108. The Commissioners may, at any time after the public- Power to reation of the notice required by section 112, value and rate any vise valuation holding which was at her at the section 112, value and rate any and assessment the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise valuation at the section 112, value and rate any vise value and rate any vise value and vise value holding which was without authority omitted from the ment. valuation and rating list, or which has become liable to valuation and rating after the publication thereof; and may enhance the valuation and rating of any holding which may appear to have been insufficiently valued or rated through mistake, oversight or fraud; and may re-value and re-assess

(Part IV.—Of Municipal Taxation)—Sees. 109-111A.)

any holding the value of which has been increased by additions or alterations to any building thereon.

Any rate imposed or enhancement made under this section shall take effect from the beginning of the quarter next following that in which the rate shall be imposed or enhancement

made.

Power to wrise assess nent-list. 109. The Commissioners may, at any time, substitute for any name mentioned in the valuation and rating-list the name of any person to whom any holding mentioned therein shall have been transferred.

Such person shall be liable to pay the rate payable on such holding from the first day of the quarter next after the date of the transfer.

temission or efund on accent of vaant holdings.

110. When any holding has been vacant for sixty or more consecutive days during any year, the Commissioners shall remit, and, if the rate has been paid, shall refund, one-half of so much of the rate of that year as may be proportionate to the number of days the said holding has remained unoccupied:

Provided that the owner of such holding, or his agent, has given to the Commissioners notice in writing of the vacancy thereof, and that the application for refund is made within six months from the date on which such notice is delivered at the office of the Commissioners.

The amount of tax to be remitted or refunded shall be

calculated from the date of the delivery of such notice.

enalty.

111. Whoever, being the owner of any holding for which a remission or refund of the rate has been made under the last preceding section, fails to give notice of the re-occupation of such holding within ten days of such re-occupation shall be liable to a fine not exceeding three times the amount of rate payable quarterly on such holding.

Of General Provisions relating to the Tax on Persons and the Rate on Holdings and to the Recovery of the same.

Appointment of assessor of municipal saxes. on the report of the Commissioner of the Division, that the assessment in any municipality is insufficient or inequitable, and if the Commissioners have not appointed an assessor under section 46, the Local Government may, by an order in writing, require the Commissioners of such municipality to revise and amend such assessment, or to show cause against such order within a time to be specified therein;

and if the Commissioners fail to comply with such order, or if, in the opinion of the Local Government, the revised and amended assessment is insufficient or inequitable, the Local

¹ As to the imposition of this tax and rate, see a. 96, ante, p. 745.
2 Section 111A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1896), a. 43, id Vel. III of bith Orde.

(Purt IV.—Of Municipal Taxation.—Secs. 112-115.)

Government may, by an order in writing, require the Commissioners to appoint an assessor of municipal taxes for such municipality, within a time and for a period to be specified in such order; and such assessor shall exercise all the powers of assessment except under sections 113, 114 and 115, vested by this Act in the Commissioners.

Such order shall fix the pay of the assessor and the cost of his establishment, and such pay and cost shall be paid monthly by the Commissioners.

112. When the assessment-list of the tax upon persons, or Publication the valuation and rating-list of the rate on the annual value of of notice of assessments. holdings, shall have been prepared or revised, the Chairman shall sign the same, and shall cause it to be deposited in the office of the Commissioners, and shall cause the notice in Form A or the notice in Form B of the third Schedule (as the case may be) to be published in the manner prescribed by section 354.

113. Any person who is dissatisfied with the amount Application assessed upon him or with the valuation or rating of any for revisit.

or who disputes his occupation of any holding, or his liability to be assessed or rated,

may apply to the Commissioners to review the amount of assessment, valuation or rating, or to exempt him from the assessment or rate.

¹[When an assessor has been appointed under section 111A, notice of every such application shall be given by the Commissioners to the assessor.

114. Every application presented under the last preceding section shall be heard and determined by not less than three Commissioners, who shall be appointed in that behalf by the ²[Commissioners at a meeting]. The Commissioners so appointed, after [taking such evidence and] making such inquiries as they may deem necessary, may pass such order as they shall think tit in respect of such application.

The decision of such Commissioners, or of a majority there-

of, in such cases shall be final.

115. Unless good cause shall be shown to the satisfaction of time for of such Commissioners for extending the time allowed, and application save as is otherwise expressly provided in this Act, no such for review. application shall be received after the expiration of one month from the date of publication of the notice required by section 112 relating to the list containing the assessment, valuation or rating in respect of which the application is made, or after the expiration of fifteen days from the date of service of the first

upon review.

¹ This paragraph was added to s. 118 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 44, in Vol. III of this Code.

⁸ The words "Commissioners at a meeting", in s. 114, were substituted for the werd "Chairman" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 45, in Vol. III of this Code.

⁸ The mondal "Sables and additional series" in Sables and Sables a

tons code.

*The words "taking such evidence and", in 2. 114, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act. 4 of 1894), s. 45, in Vol. III of this Code.

'(Part IV.-Of Municipal Taxation.-Secs. 116-121.)

notice of demand for payment at the rate in respect of which the application is inade, whichever period shall last expire.

*116. No objection shall be taken to any assessment or rating * 1 in any other manner * 2 than in this Act is provided.

Office hours for payment

Asiessment to be questioned only under

> .117. By notification to be posted up in their office, the Commissioners shall declare at what hours of each day (not being a Sunday or other recognized holiday) the office shall be open for the receipt of money and the transaction of business.

Tax payable in advance.

118. The amount due by any person on account of the tax on persons, or the rate on holdings, shall be deemed to be the amount entered in the lists, the notice relating to which is published under section 112, unless the amount entered in such lists is subsequently altered by the Commissioners as provided in this Act; in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due.

Every instalment of such tax or rate shall be deemed to be due on the first day of the quarter in respect of which such

instalment is payable.

Receipts to Se

119. For all sums paid on account of any tax or rate under this Act a receipt stating the amount and the tax or rate on account of which it is paid shall be given, signed by the taxcollector, or by some other officer authorized by the Commissioners to grant such receipts.

120. At any time within six months after any sum has become due on account of any tax or rate, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax or rate on account of which the charge is made.

If the amount mentioned in such bill be not paid on presentation thereof, a notice of demand in the form marked A in the fourth Schedule, with copy of the bill appended thereto, shall be served on the person liable to pay the same, and such notice

of demand may be served at any subsequent time:

Provided that no charge shall be made in respect of the

service of such notice.

Such notice shall be signed by the Chairman or an officer authorized in that behalf, and shall be served by a person

authorized to receive payment.

121. If any person, after service upon him of such bill and notice, shall not, within fifteen days of the service of such notice or from the date of any order made on an application for review under section 114, pay the sum due, either to the Commissioners at their office or to some person authorized by them

[.] The words "nor shall the liability of any person to be assessed or rated be questioned", in a. 116, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, and are omitted.

"The words "og.-by any other authority" were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, and are emitted.

(Part IV.—Of Municipal Taxation.—Secs. 122, 123.)

to receive the money, or show to the Commissioners sufficient

cause for not paying the same,

the amount of the arrear due, with costs on the scale shown in the table of fees marked B in the fourth Schedule, may at any time within three months after the date of service of the said notice, or of the order made on an application for review as aforesaid, be levied by distress and sale of any movable property belonging to the defaulter, except ploughs, ploughcattle, tools or implements of agriculture or trade, wherever found, or of any moveable property belonging to any other person, subject to the same exceptions which may be found within the holding in respect of which such defaulter is liable to such tax or rate:

¹[Provided that when the holding in respect of which the default is committed is a place of business, and the movable property distrained is shown to the satisfaction of the Commissioners to have been left there for repairs or safe custody in the

ordinary course of business, it shall be released:

Provided also that, if the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.]

2 same.]
122. Every warrant of distress and sale under the last to be made. preceding section shall be issued by the Commissioners, and

shall be in the form marked C in the fourth Schedule.

Distress shall be made by actual seizure of movable property, and the officer charged with the execution of the warrant

shall be responsible for the due custody thereof.

Such officer shall make an inventory of all movable property seized under the warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the form marked D in the fourth Schedule:

Provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from

the seizure.

123. The officer charged with the execution of the warrant officer may be be be been open may, under the special order of the Commissioners, between door. sunrise and sunset break open any outer or inner door or

¹ These two provisos were substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 47, b Vol. III of this Code. The original paragraph ran as follows:—

"If the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress, or any sale under the same."

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(Part IV.—Of Municipal Taxation.—Secs. 124-127.)

window of a house, in order to make the distress, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that he shall not enter or break open the door of any room appropriated for the zan ma, or residence of women, which by the usage of the country is considered private, except after three hours' notice and opportunity given for the retirement of the women.

Sale how to be conducted.

Return of

Certain

Penalty.

persons prohibited from purchasing at

124. If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the Commissioners, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or

in a Court of competent jurisdiction.

The tax-collector or other officer authorized in that behalf shall make a return of all such sales to the Commissioners in the form marked E in the fourth Schedule.

125. All officers and servants of the Commissioners, and all chaukidars, constables and other officers of police are prohibited from purchasing any property at any such sale.

¹Whoever (not being a public servant within the meaning of section 21 of the Indian Penal Code) contravenes the provisions of this section shall be punished with simple imprisonment for a term which may extend to two months, or with fine, or with both.

126. The Commissioners shall cause a regular account to be

kept of all distresses levied, and sales made, for the recovery of taxes under this Act.

Commissio to keep account of distrones and perty beyond limits of municipality.

127. If no sufficient '[movable property] belonging to, a defaulter, or being upon the premises in respect of which be is assessed or rated, can be found within the municipality, the Magistrate may, on the application of the Commissioners, issue his warrant to any officer of his Court for the distress and sale of any '[movable] property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any '[movable] property belonging to the defaulter within the jurisdiction of

¹ This paragraph was added to s. 125 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 43, in Vol. III of this Code.

⁸ Printed in the General Acts, 1884-67, Ed. 1909, p. 252.

⁸ These 'words "movable property", in s. 127, were substituted for the words "goods or chattels" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 49, in Vol. III of this Code.

Cour.

4 This word "morable" in a 127, was substituted for the word "personal" by the Bengal
Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 49, in Vol. III of this Code.

(Part 1V.-Of Municipal Taxation.-Secs. 128-13k)

any other Magistrate [exercising jurisdiction within the territories administered by the Lieutenant-Governor of Bengal'] and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Commissioners.

128. No distress or sale made under this Act shall be Distress or deemed unlawful nor shall any party making the same be unlawful for deemed a trespasser on account of any error, defect or want of want of form form in the bill, notice, summons, warrant of distress, inventory or other proceeding relating thereto.

129. Instead of proceeding by distress and sale, or in case Commisof failure to realize thereby the whole or any part of any tax, singers may the Commissioners may sue the person liable to pay the same intend of distraining in any Court of competent jurisdiction.

130. The Commissioners may order to be struck off the Irrecoverable books the amount of any tax or rate which may appear to them to be irrecoverable.

distress.

Of the Tax on Carriages, Horses and other Animals?

131. When it has been determined that a fax on carriages, Tax on horses and other animals specified in the fifth Schedule shall be horses imposed, the Commissioners at a meeting shall make an order other animals that every carriage, horse, and every other animals of the kind specified in the said Schedule, which is kept '[or is used in the ordinary course of business] within, or which is let for hire within or without, the municipality, [and is used in the ordinary course of business] within it, shall pay the tax, and shall cause such order to be published in the manner prescribed by section 354.

Such order shall be published at least one month before the beginning of the half-year in which such tax shall first take effect; and shall specify at what rates, not exceeding the rates given in the said Schedule, such tax shall be levied.

*But such tax shall not be imposed on-

(a) horses or ponies belonging to officers doing regimental duty, at the rate of one animal for each officer;

(b) animals exempt from any municipal tax under section 25 of the Indian Volunteers Act, 1869;

(c) carriages or animals belonging to Government, or to the Commissioners, or for keeping which for the

1 The words "exercising jurisdiction within the territories administered by the Lieutenant-Governor of Bengal", in a. 127, were substituted for the word "whatsoever" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 49, in Vol. III of this Code.

§ Now the Presidency of Fort William in Bengal and other territory.

§ As to the imposition of this tax, see a. 86, anke, p. 746.

4 The words "or is used in the ordinary course of business" and "and is used in the ordinary course of business," in s. 131, were substituted for the Words "or habitually used" and "and habitually used", respectively, by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (1), in Vol. III of this Code.

§ Printed in the General Acts. 1858-78. Ed. 1908. v. 96.

20 of 1869.

(Part IV.—Of Municipal Taxation.—Secs. 132-135.)

execution of their duty an allowance is made by the Government or by the Commissioners to any of their officers:

- (d) animals used by, or exclusively for the purposes of, any regiment;
- (e) horses or ponies used by police officers, at the rate of not more than one for each officer;
- (f) carriages, the wheels of which do not exceed twentyfour inches in diameter;
- (q) carriages or animals kept for sale by any bond fide dealer in such carriages or animals, and not used for any other purpose.

Tax so fixed force until

132. Any order of the Commissioners imposing a tax under the last preceding section shall continue in force until rescinded, and the fax shall be levied at the rates specified in the order published as aforesaid unless and until the Commissioners at a meeting, held not less than fifteen days before the end of the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

133. In any municipality in which a tax has been imposed under section 131, the owner of every carriage, horse and other animal specified in the said Schedule shall, within the first month of each half-year, forward to the Commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax, for which he is bound to take out a license.

Such owner shall, at the same time, pay to the Commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified in any order for the time being in force under the two last preceding

sections.

134. If any person acquires possession, at any time after the commencement of any half-year, of any carriage, horse or other animal specified in the Schedule, in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the halfyear bears to the half year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

135. On receiving the amount of the tax due as aforesaid, the Commissioners, or some person authorized by them in that behalf, shall give to the person paying the same a license for the several carriages, perses and other animals for the period in respect of which the amount is received.

Such license shall be for the current half-year and no longer.

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(Part IV.-Of Municipal Faxation.-Secs. 136-141.)

136. Whenever the owner of any carriage, horse or other Carriage, etc animal liable to pay the said tax is not resident within the although the limits of the municipality to the Commissioners of which the owner absent. tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall take out a license for the same.

Whoever keeps, or is in possession of, any carriage, Penalty. horse or other animal, without the license required by any of the three last preceding sections, shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, exclusive of the amount so payable.

138. The Commissioners, at their discretion, may com- Commispound for any period not exceeding one year, with livery sioners may stable-keepers and other persons keeping carriages or animals with livery stablefor hire, for a certain sum to be paid for the carriages or keepers. animals so kept by such person, in lieu of the tax at the rates specified in any order made by the Commissioners under sections 131 and 132.

139. The Commissioners shall, from time to time, cause to List of be prepared and entered in a book, to be kept by them, and to licensec be open to the inspection of any person interested therein, a prepared. list of the persons to whom during the then current halfyear a license has been given, and of the carriages, horses and other animals in respect of which they have paid the

140. The Commissioners, or any person authorized by Power to them in that behalf, may, at any time between sunrise and etc., and to sunset, enter and inspect any stable or coach-house, or any summon place wherein they may have reason to believe that there is better the common state of any carriage, horse or other animal liable to the tax, for which payment the tax, a license has not been duly taken out.

And the Commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

141. On proof being given to the satisfaction of the Com- Refund of tax missioners that a carriage, horse or other animal for which a cases. license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the Commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Commissioners within one month of the time when such use of such carriage, horse or other animal ceased, and, except for special cause shown, the Commissioners shall

(Part IV.—Of Municipal Taxation.—Secs. 141A-141.)

pass no order for refund until after the close of the half-year respect of which the refund is claimed.

Prohibition of double fee.

1141A. Nothing in sections 131 to 141 shall be deemed to authorize the levy of more than one fee for the same period in respect of any carriage, horse or other animal which is kept or used in more than one municipality

Meaning of "used in the ordinary course of

141B. A carriage, horse or other animal shall be deemed to be used in the ordinary course of business, within the meaning of section 131, if it is used on business on an average thrice a week.

Of the Registration of Carts.

Registration and numbering of carts.

142. The Commissioners at a meeting may make and publish an order that every cart which is kept '[or is used in the ordinary course of business] within or which is let for hire within or without the municipality '[and is used in the ordinary course of business] within it shall be registered by the Commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said Commissioners shall direct:

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

This section shall not apply to-

- (a) carts which are the property of the Government or of the Commissioners;
- (b) carts which are kept without the limits of the municipality, and are only temporarily and casually used within such limits;
- (c) Howrah

Fee for

143. The registration of carts under the last preceding section shall be made, and the numbers assigned yearly or half-yearly, upon such days as the Commissioners shall notify and such fee as they shall from time to time fix and notify not exceeding four rupees if the registration has effect for a year, and not exceeding two rupees if the registration has effect for half a year, shall be paid for each registration.

144. Any person becoming possessed of any cart which has not been registered for the then current period of registration

¹ Section 141A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 50, in Vol.4III of this Code.

8 The words "or cantonment", in s. 141A, were repealed by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1895), s. 9 (4), and are omitted.

9 Section 141B was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 70, in Vol III of this Code.

4 The words "or is used in the ordinary course of business" and "and is used in the ordinary course of business", in s. 143, were sustituted for the words "or habitually used" and "and habitually used." (a. 9 (1), in Vol. III of this Code.

9 The words "tracks Suburbs of Calcutta", in s. 142 (c), were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 51, and are omitted.

6 As to the lary of this Sec, ase also s. 96, sees, p. 745.

of 1684.

(Part IV.—Of Municipal Taxation.—Secs. 145-147.)

shall register the same within one month from the date on which he may have become possessed thereof, and the Commissioners shall grant registration in any such case on payment of such amount of the fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person may have become possessed as aforesaid.

145. When the ownership of any registered cart is trans- Transfer of ferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such last-mentioned

registration. 146. Whoever keeps, or is in possession of, a cart not duly Penalty. registered as required by any of the three last preceding sections shall be liable to a fine not exceeding three times the amount payable by him in respect of such registration, exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix thereto the registration number as required by section 142 shall be liable to a fine not exceeding five rupees.

147. If any person owns or keeps any cart hereinbefore sale of required to be registered without having caused the same to unregistered be registered, the Commissioners, or any person authorized by cart. them in that behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the animals drawing the same, and all police officers are required, on the application of the Commissioners, or of any servant of the

Commissioners duly authorized in that behalf, to assist in the said seizure.

After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of ten days they will sell such vehicle and animals by auction at such place as they may state in the notice; and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Commissioners may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners

or in a Court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart has been seized shall tender to the Commissioners, or to the person authorized by them to sell the cart, the amount of all the expenses incurred and the

(Part IV.—Of Municipal Taxation.—Secs. 147A-149.)

registration fee payable by him, the Commissioners shall forthwith release the cart so seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any cart which has been seized under this section may be sold for the realization of any such fine.

Prohibition of

1147A. Nothing in sections 142 to 147 shall be deemed to authorize the levy of more than one fee for the same period in respect of any cart which is 2[used in the ordinary course of business in more than one municipality

Apportion-ment of fees.

'[When carts not kept within any municipality are so used in more than one municipality, the Local Government, on the application of the Commissioners of any such municipality, may, if it thinks fit, apportion between all such municipalities the registration fees paid under this Act in respect of such carts.

Levy of fee when cart registered in municipality.

Where a cart is registered under this Act in more than one municipality, the Commissioners of the municipality within which the cart is kept shall have a right to levy the registration fee in preference to the Commissioners of any other municipality.

Meaning of "used in the ordinary course of business."

¹ 147B. A cart shall be deemed to be used in the ordinary course of business, within the meaning of sections 142 and 147A, if it is used on an average twice a week.

Of Tolls on Ferries.

Existing public ferries.

148. The Local Government may, with the consent of the Commissioners, make over to the Commissioners any existing public ferry within or adjacent to the limits of the municipality, to be administered by them until the Local Government shall otherwise direct.

Every ferry, while so administered, shall be deemed to be a municipal ferry, and the profits derivable therefrom, or such part of the profits as shall be agreed upon between the Local Government and the Commissioners, shall be carried to the credit of the municipal fund.

nay be leclared to be municipal.

149. The Commissioners may also, with the sanction of the Local Government, declare that any other ferry within, or adjacent to, the limits of the municipality is a municipal ferry,

¹ Section 147A was inserted by the Bengal Municipal (Amendment) Act, 1884 (Ben. Act 4 of 1894), s. 52, in Vol. III of this Code.

The words "used in the ordinary course of business", in s. 147A, were substituted for the words "babitsally need" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (2), in Vol. III of this Code.

The words "or cantonment", in s. 147A, were repealed by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (4), and are omitted.

These paragraphs in equare brackets were added to s. 147A by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (3), in Vol. III of this Code.

Beckins 147B was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 11, in Vol. III of this Code.

For a list of orders made under section 148 for Bengal as constituted on the 81st March, 1912, set the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

For a list of sanctions given under section 149 for Bengal as constituted on the 81st March, 1912, as the Bengal Local Relations Rules and Orders, 1912, Vol. I, Pt. VI.

of 1**004.**]

(Part IV.—Of Municipal Taxation.—Secs. 150-153.)

and the profits derivable therefrom shall thenceforward be carried to the credit of the Municipal Fund:

Provided that due compensation shall be made by the Commissioners to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the magistrate under the provisions of section 4 of Bengal Act 1 of 18661 (to amend certain provisions of Regulation 6 of 1819), or any similar law for the time being in force.

150. Every municipal ferry shall be maintained by the Duties of Commissioners, and they shall do all things necessary to in regard to provide for the safety and convenience of travellers, and the such ferries. safety of property to be conveyed on such ferry.

151. When it has been determined to impose tolls on Rate of tolls municipal ferries, the Commissioners at a meeting shall make lighted and and publish an order specifying the ferries and, with the published. sanction of the Commissioner of the Division, the rates at which such tolls shall be levied.

Such rates may from time to time be varied with the like sanction.

152. No person shall be liable to pay any toll for crossing When persons any river or stream at or near a municipal ferry, unless he crossing river not liable to avails himself of the means provided by the Commissioners for toll. crossing such river or stream.

153. Every lease of a ferry given by the Commissioners as Cancellation hereinafter provided shall be liable to be cancelled at once, if it of ferry lease shall appear to the Commissioners at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the Commissioners.

On the cancelment of a lease the Commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the Commissioners shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that within a week of taking such possession, the Commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

Ben. Act 1 of 1866 was repealed and re-enacted by the Bengal Ferries Act, 1885 (Ben. Act 1 of 1885)—see now s. 17 of the latter Act, post p. 891.

As to the imposition of tolls, see s. 35, anss, p. 745.

(Part IV.—Of Municipal Taxation.—Secs. 154-158.)

Toli must be prepaid.

154. Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuse to pay the toll to leave the boat and to remove his goods from it.

Penalty.

Any person who refuses to leave a municipal ferry boat or to remove his goods therefrom when required to do so under this section shall be liable to a fine not exceeding ten rupees.

Keeping of unauthorized forry. 155. No person shall keep a ferry-boat for the purpose of plying for hire within a distance of two miles above or below any municipal ferry without the previous sanction,

of the Commissioners, if he plies within the limits of the municipality, of the Magistrate of the district, if without such limits.

or of the Magistrate of the district and the Commissioners, if one of the two banks between which he plies is within, and the other bank is without, such limits.

This section shall not apply to any private ferry which may be in existence at the commencement of this Act.

Penalty.

156. Whoever keeps a ferry-boat contrary to the provisions of the last preceding section shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Of Tolls on Bridges and Roads.

Existing toll-bars. 157. The Local Government may, with the consent of the Commissioners at a meeting, make over to the Commissioners any existing toll-bar within the limits of the municipality, to be administered by them until the Local Government shall otherwise direct; every toll-bar while so administered shall be deemed to be a municipal toll-bar, and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the Commissioners shall be carried to the credit of the municipal fund.

Commissioners may establish toll-bar.

158. The Commissioners at a meeting, with the sanction of the Local Government, may establish a toll-bar and levy tolls on any bridge or metalled road which they may have constructed after the commencement of this Act, or at any place within the municipality adjacent to such bridge or metalled road at which tolls may conveniently be levied on vehicles and animals passing over such bridge or road; and the profits tervable-therefrom shall be carried to the credit of the Municipal Fund;

Provided that no such toll-bar shall be established, or tolls evied, otherwise than for the purpose of recovering the expenses

(Part IV.—Of Municipal Taxation.—Secs. 159-163.)

incurred in constructing such bridge or road and in maintaining such bridge or road in repair for the five years next after the construction thereof, together with interest on such expenses as hereinafter provided.

159. Whenever a toll-bar shall have been established, and Commissioners to publish tolls shall be levied, as provided in the last preceding section, exp the Commissioners shall at the end of each year publish, by of toll-bars. causing it to be posted up at their office, an abstract account showing-

- (1) the amount of expenses incurred in the construction of such bridge or road, and in the maintenance of the
- (2) the amount of interest which has accrued due thereon, at the annual rate of six per centum, and
- (3) the amount which has been received from the profits of the said toll-bars since its establishment.

And, as soon as such expenses and interest shall have been recovered as aforesaid, such toll-bars shall be removed, and tolls shall no longer be levied on such bridge or road.

160. When it has been determined that tolks shall be Rates of tolls levied on any such bridge or road, the Commissioners at a lished and meeting shall make and publish an order, with the sanction of published. the Commissioner of the Division, specifying rates at which such tolls shall be levied.

Such rates may from time to time be varied with the like sanction.

161. Any collector or lessee of tolls may refuse to allow Power of any person to pass through any municipal toll-bar until the lessee in case

162. Whoever, having driven any vehicle or animal (not exempted from toll) through a toll-gate, refuses to pay the toll, or, with intent to evade payment of the toll, fraudulently avoids passing through such toll-gate, shall be limble to a grayment of avoiding payment. not exceeding fifty rupees.

163. If the toll due on any vehicle or animal is not paid in case of on demand, the person authorized to collect the same may seize of toll, vehicle, the may be such vehicle or animal, or any part of its burden of sufficient etc., value to defray the toll, and shall give immediate notice of such rold. seizure to the Commissioners.

After such seizure the Commissioners shall forthwith issue a notice in writing that, after the expiration of ten days, they will sell the property seized by auction at such place as they may state in the notice; and if any toll, together with the cost arising from such seizure and custody, remain undischarged for ten days after the issue of such notice, the Commissioners may sell the property seized, for discharge of the toll, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(Part IV .-- Of Municipal Taxation. -- Secs. 164-168.)

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction:

Provided that, if at any time before the sale has been concluded, the person whose property has been seized shall tender to the Commissioners, or to the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable, the Commissioners shall forthwith release the property seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of any property seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any property which has been seized under this section may be sold for the realization of any such fine.

Of General Provisions relating to Tolls on Ferries and Roads.

Lease of ferry or toli-bar.

164. The Commissioners may grant a lease of any municipal ferry or toll-bar for any period not exceeding three years.

Table of tolks to be hung up.

165. A table of tolls legibly written in the vernacular of the district shall be hung up,

in some conspicuous position at each end of every municipal ferry, and

in some conspicuous position near every municipal toll-bar, so as to be easily read by all persons required to pay the toll.

Penalty.

166. Whoever, being a toll-collector or lessee of a municipal ferry or toll-bar, neglects to hang up a table of tolls as required by the last preceding section shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Composition spect of

167. The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

Exemptions.

163. No tolls shall be paid for the passage * Government stores or the persons in charge of them:

* * police officers, or of any public or municipal officer on duty, or of any person in their custody, or of any

¹ The words "of troops on the march or of animals or vehicles employed in the transport of such troops," in s. 166, were repealed by the Indian Tolls (Army) Act, 1901 (2 of 1901), and are omitted. omitted. *

The words "military or" were repealed by the Indian Tolls (Army) Act, 1901 (2 of 1901),

and are omitted.

* So much of section 168 as relates to any Government stores which are exempted by s. 8 of the Indian Tolls (Army) Act, 1901 (2 of 1901), is repealed by s. 8 of that Act.

of 1884.]

(Part IV.-Of Municipal Taxation.-Secs. 169-172.)

property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property;

or of conservancy carts or other vehicles or animals belonging to the Commissioners or of the persons in charge of them;

Provided that tolls shall be leviable for conveying such animals 2 over a ferry.

And the Commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll.

But the Commissioners at a meeting may exempt any other class of persons or things from payment of the said toll; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and any other persons or things shall be allowed to pass without payment of the toll.

169. In all cases of resistance to the person authorized to Police officers collect tolls, police officers shall assist when required, and for that purpose shall have the same powers as they have in the

exercise of their ordinary police duties. 170. Whoever, being authorized under this Act to collect Penalty for tolls, demands or takes any higher tolls than the tolls taking unauthorized authorized under this Act, shall be liable to a fine not exceed- tolls. ing fifty rupees, and in default of payment to one month's imprisonment.

Ben. Act 5 of 1864

171. If the Local Government has declared that the provi- Commissioners sions of the Canals Act, 1864, or any other similar law for the appointed to time being in force, are applicable to any navigable channel collect tolls in which passes through the limits of a municipality, it analygable channel. may, with the consent of the Commissioners, appoint the Commissioners to collect tolls, as provided in section 8 of the said Act, until the Local Government shall otherwise direct; and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the Commissioners, shall be carried to the credit of the municipal fund.

In such case the Commissioners shall exercise all the powers vested by such Act in the Collector.

172. The Local Government may at any time order that the Local Govern-Commissioners, or any person authorized by them, shall cease ment may order Comto levy any tolls under the last preceding section, and may at missioners to any time withdraw such order.

e levying tolls.

¹ The words "or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar," were repealed by the Indian Tolla (Army) Act, 1801 (2 of 1801), and are omitted.

8 So much of this provise as relates to any animals which are exempted by s. 8 of the Indian Tolla (Army) Act, 1801 (2 of 1901), is repealed by s. 8 of that Act.

9 For further exemptions from tolls, see ss. 8 and 4 of the Indian Tolla (Army) Act, 1801 (2 of 1801), in General Acts, 1888-05, Ed. 1808, pp. 509-511.

6 Printed cate, page 21.

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 173-175.)

PART V.

MUNICIPAL REGULATIONS WHICH SHALL BE GENERALLY IN FORCE IN ALL MUNICIPALITIES.

General.

Operation of this Part. 173. The provisions of this Part shall be in force in every municipality, unless and until the Local Government shall otherwise direct.

Local Government may order provisions of this Part to be not in force in any municipality. 174. The Local Government may, at any time, make an order directing that all or any of the said provisions shall not be in force in any municipality or in any part thereof; and the provisions mentioned in such order shall cease to be in force in such municipality, or part thereof, from the date specified in such order.

The Local Government may at any time cancel or modify

any order made under this section.

Procedure, when owners or occupiers required to execute works by Commissioners. 1175. Whenever it is provided in this Part or in Part VI that the Commissioners or the Commissioners at a meeting may require the owners or the occupiers, or the owners and occupiers of any land, to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 356 and 357, on every owner or occupier who is required to execute such work or to do such thing; but, if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers of any land, to execute such work or to do such thing within a specified time; and in such notification it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in the next succeeding section, the Commissioners will enter upon the land and cause the required work to be executed, or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisi-

tion to execute such work or do such thing.

³ In Darjeeling, sections 175 to 182 do not apply in the case of any notice issued under any of the chanses enacted by the Darjeeling Municipal Act, 1900 (Sen. Act 1 of 1900), or under any rule or hylaw made under any such clause—see s. 6 of that Act, in Vol. III of this Code.

of 1984.

(Part V.-Muncipal Regulations which shall be generally in force in all Municipalities.—Secs. 176-179.)

1176. Any person who is required by a requisition as Person aforesaid to execute any work or to do anything may, instead execute any of executing the work or doing the thing required, prefer an work may objection in writing to the Commissioners against such requisition to the tion within five days of the service of the notice or posting sioners. up of the notification containing the requisition; or, if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Except as provided in the next succeeding section such objection shall be heard and disposed of by the Chairman or

Vice-Chairman.

177. If the objection shall allege that the cost of executive personal ing the work or of doing the thing required will exceed three objecting hundred rupees, such objection shall be heard and disposed of work will cost will cost that by the Commissioners at a meeting; unless the Chairman or more hundred Vice-Chairman shall certify that such cost will not exceed rupees. three hundred rupees, in which case the objection shall be heard and disposed of by the Chairman or Vice-Chairman:

Provided that in any case in which the Chairman or Vice-Chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the Chairman or Vice-Chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Commissioners as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof; and the Commissioners themselves shall execute such work or do such thing, and shall exercise all powers necessary therefor.

178. The Chairman or Vice-Chairman, or the Commiscite, may make sioners at a meeting, as the case may be, shall, after hearing order after the objection and making any inquiry which they may objection. deem necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred; and, if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

1179. If the person making such objection be present order to be explained at the office of the Commissioners, the said order shall be orally. explained to him orally; and, if such order cannot be so explained, notice of such order shall be served as provided

Ben. Act 3

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 180-182A.)

in section 356 on the person making the objection; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

Power of Commissioners on failure of person to execute work. "180. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the Commissioners until it is completed, the Commissioners or any person authorized by them in that behalf, may, after giving forty-eight hours' notice of their intention by a notification to be posted up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers, if such requisition was addressed to the

181. Whenever any expenses incurred by the Commissioners are to be paid by the owners of any land as provided in the last preceding section, the Commissioners may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the Commissioners may seem fit.

And whenever any such expenses are to be paid by the occupiers of any land, as provided in the last preceding section, the Commissioners may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Commissioners may seem fit.

Apportionment among owners and occupiers.

Commissioners may apportion

k penses

owners.

182. Whenever any expenses incurred by the Commissioners are to be paid by the owners and occupiers of any land, as provided in section 180, the Commissioners may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the Commissioners may seem fit.

vitten notice, make any requisition or order under any of the clauses enacted by the Darjeeling Municipal Act, 1900,3 or under any rule or by-iaw made under any such 1900, clause, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect.

Ben. Act 1 of 1900.

Time for complying with requisition or order, and power to enforce requisition or order in default of purson directed.

See foot-note 1 on page 768, saie.
 Bections 182A and 182B were inserted for the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 7, in Vol. III of this Code.
 Frinted in Vol. III of this Code.

of 1884.

(Part V.-Municipal Ryulations which shall be generally in force in all Municipalities.—Secs. 182B-184.)

> (2) If any such requisition or order or any portion thereof is not complied with within the period so prescribed or any further period allowed by them, the Commissioners may take such measures, or cause such work to be executed or such things to be done, as may, in their opinion, be necessary for giving due effect to such requisition or order; and the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

> (3) The Commissioners may take any measure, execute any work, or cause anything to be done under this section whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any

punishment for such failure.

182B. (1) Any person on whom a notice Right to show under section 210B, section 210C, section 244V cause against or section 248A is served, may, at any time requisitions of the period, or further or orders. before the expiration of the period or further period prescribed under section 182A for carrying into effect the requisition or order made by the notice, appear before the Commissioners and show cause why such requisition or order should not be complied with.

(2) If cause is shown as aforesaid by any such person, the Commissioners shall, after hearing him, either cancel the notice or confirm the same, subject to such modifications (if any) as they may think fit.

183. Whenever any works or any alterations and improvements of which the Commissioners are authorized by works this Part or Part VI to require the execution are executed the by the occupier on the requisition of the Commissioners, or from owner. are executed by the Commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners shall certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

any Court of competent jurisdiction.

184. Any owner, or occupier of land may contest his liability to pay any expenses or fees under this Part or or fees may be contested in Civil Court.

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 185-189.)

called upon to pay in a Civil Court of competent jurisdiction:

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount, in the manner provided by section 360.

Damages and compensation how to be determined.

Establish-

removal of

removal of offensive

matter.

185. Where any damages or compensation, other than compensation payable under section 35, are by this Act directed to be paid by the Commissioners, the amount, and, if necessary, the apportionment of the same, shall, in case of dispute, be ascertained and determined by a Civil Court of competent jurisdiction.

Of Sewage, Offensive Matter, Rubbish, Privies and Drains.

186. The Commissioners shall provide all establishments cattle, carts and implements required [by them] for the newage, offensive matter removal of sewage, offensive matter and rubbish. and rubbish. Hours and

187. The Commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which it shall be lawful to remove *[sewage and] offensive matter and the manner in which the same shall be removed, and may provide places convenient for the deposit thereof, and may require the occupiers of houses to cause the same to be deposited daily, or at other stated intervals, in such places, and may remove the same at the expense of the occupier from any house if the occupier thereof fails to do so in accordance with this Act.

188. Whenever such order shall have been published, no Makters must give one month's notice mehter or other servant of the Commissioners employed to if they leave the service of remove or deal with sewage, offensive matter or rubbish shall withdraw from his duties without the permission of the Comthe Commissioners. missioners, unless he has given notice in writing not less than one month previously of his intention so to withdraw.

> Any mehter or other such person who, after the said publication, withdraws from his duties without giving such notice as aforesaid shall be liable to rigorous imprisonment for a term not exceeding one month, and shall forfeit all salary

which may be due to him.

189. The Commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which only every occupier of any house or land may place rubbish on the public road adjacent to his house or land in order that such rubbish may be removed by the Commissioners and the Commissioners may charge such

Commissioners may appoint hours for placing rubbish on public road.

¹ There words "by them", in s. 186, were inserted by the Bengal Municipal (Ameldment) Act, 1894 (Ben. Act 4 of 1894), s. 89, in Vol. III of this Code.

² The words "sewage and", in s. 187, were inserted by the Bengal Municipal (Amendment) Act, 1884 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

of 1884.7

(Part V.-Municipal Regulation's which shall be generally in force in all Municipalities.—Secs. 190-193.)

fees as they may think fit in respect of the removal of such rubbish, with the consent of the occupier of any house or land, from such house or land, or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

190. All drains, privies and cesspools shall be subject to Drains, privies and

the inspection and control of the Commissioners.

cesspools under control of Commissioners.

Inspection of drains, privies and cesspools.

1191. The Commissioners, or any officer authorized by them in that behalf, may inspect all privies, drains and cesspools at any time between sunrise and sunset, after six hours' notice in writing to the occupier of any premises in which such privies, drains or cess-pools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or cesspools; and the expenses thereby incurred shall be paid by the owner or occupier of

such premises.

192. Whenever the Commissioners are satisfied that the existence of such privy, drain or cesspool is attended with risk the use of the neighbourhood, they may dishrectants of disease to the inhabitants of the neighbourhood, they may or discrete the use of such disinfectants or deodorants as they shall for such direct the use of such distributions of for such time as they shall think fit.

The Commissioners shall, if necessary, themselves supply such disinfectants or deodorants for such use at cost price, and the expense thereby incurred shall be considered as an arrear of tax, and be recoverable as such from the owner of such privy, drain or cesspool; or the Commissioners may, if they think fit, order that such expense shall be paid from the municipal fund.

193. The Commissioners may provide and maintain, in Common sufficient numbers and in proper situations, common privies privies.

2 191. The Commissioners, Inspection them in that behalf, may in-cesspools. or any officer authorized by spect all privies, drains and cesspools at any time between sunrise and sunset, with-out giving notice to the occupier of any premises in which such privies, drains or cesspools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or cesspools; and the expenses thereby incurred shall be paid by the owner or occupier of such premises.

noxious state.

¹ Section 191 applies in this form to all municipalities in Bengal except Darjeeling.

The only difference by the section as applying to municipalities in Darjeeling and elsewhere lies in the yords-printed in italics.

2 Section 291 applies in this form to the Darjeeling Municipality.

3 The words "without glving notice," in g. 191, were substituted for the words "after six hours" and the words without glving notice, in g. 191, were substituted for the words "after six hours" notice in writing", for Darjeeling, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 8, in Yol. III of this Code.

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 194-199.)

and urinals for the separate use of each sex, and shall cause the

Licensing of public

require owners to clear noxious vegetation and to improve had drainage.

All rubbish collected to

be the pro-perty of Municipal

Commission-

Se wers, drains, etc , under con-

Commission-

same to be kept in proper order and to be properly cleansed. 194. The Commissioners may license such necessaries for public accommodation as they from time to time may think

proper. 195. Whenever any land being private property, or within any private enclosure, appears to the Commissioners, by reason of thick or noxious vegetation or jungle, or inequalities of surface, to afford facilities for the commission of a nuisance, or by want of drainage to be in a state injurious to health or offensive to the neighbourhood, the Commissioners may require the owners or occupiers, or the owners and occupiers, of such land, within fifteen days, to clear and remove such vegetation, or level such surface or drain such land:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

196. All sewage, rubbish and offensive matter collected by the Commissioners from roads, privies, sewers, cess-pools and other places shall be the property of the Commissioners, who shall have power to sell or otherwise dispose of the same; and the money arising from the sale thereof shall be carried

to the credit of the municipal fund.

197. All existing public sewers, drains and other conservancy works shall be under the direction and control of the Commissioners, who shall have power to construct any further works of that nature which they may consider necessary.

Of Bathing and Washing Places and Tanks.

All public ms. etc. to be under direction and control of the Commis-sioners. Commissiondrinking-water, bathing-places,

198. All streams, channels, water-courses, tanks, reservoirs, springs and wells, not being private property, shall, for the purposes of this Act, be under the direction and control of the Commissioners.

199. The Commissioners may, by order published at such places as they may think fit, set apart convenient 1 [wells], tanks, or' parts of rivers, streams or channels, not being private property, for the supply of water for drinking and for culinary purposes: and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purpose of bathing;

¹ This word "wells", in s. 199, was inserted by the Bengal Municipal (Amendment) Act 1894 (Ben. Act 4 of 1894), s. 55, in Vol. III of this Code:

2 Sec. Omet or.

of 1884.]

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 199A-201.)

and a sufficient number for washing animals and clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

¹ [The Commissioners may, by an order published at such places as they may think fit, prohibit in the private portion of any stream or channel used as a part of the public water-supply bathing, washing of clothes or animals or any act likely to pollute the water in the public portion of such stream or channel.]

² 199A. If the Chief Civil Medical Officer of the district Prohibition certifies that the water in any well, tank or other place situated sioners of ass within a municipality is likely, if used for drinking, to engender of unwhole-some water. or cause the spread of any dangerous disease, the Commissioners may, by public notice, prohibit the removal or use of such water

for drinking during a period to be specified in such order.

200. (1) The Commissioners may require the owner or Power to occupier of any land within eight days, or such longer period wholesome as the Commissioners may fix, either to re-excavate or fill up tank or private premises with suitable material, at his option, or to cleanse any well, to be cleansed water-course, private tank or pool therein, and to drain off or drained and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

(2) If under section 180 the Commissioners execute the commissioners work of such re-excavation or filling up with suitable material, may retain they may retain possession of the tank or pool, or the site of tank or pool such tank or pool, and turn the same to profitable account until expenses until the expenses thereby incurred shall have been realized.

realized.

Obstructions and Encroachments on Roads.

ower to lose a road r part of a pad for **1201.** The Commissioners

201. The Commissioners Power to close may close temporarily any may close temporarily any a road or part road or part of a road for the public road or a part of a repair or purpose of repairing such public road for the purpose of road in public road for the purpose of public road, or for the purpose of repairing such road, or for the purpose.

¹ This paragraph was substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 55, in Vol. III of this Code.

8 Section 189A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 56, in Vol. III of this Code.

8 This Section was ansattiated for the original section 200 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 57, in Vol. III of this Code.

8 Section 201 applies in this form to the Darjeeling Municipality.

The difference is the section as applying to municipality.

8 Their words "any public road" and "part of a public road" were substituted for the words "any road" and "part of a public road" were substituted for the words "any road" and "part of a public road" were substituted for the words "any road" and "part of a public road" by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 9, in Vol. III of this Code.

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Sec. 201A.)

constructing any sewer, drain, culvert or bridge, or for any other public purpose:

Provided that the Commissioners so closing any road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road.

Whenever, owing to such repairs or constructions or from any other cause, any road or part of a road shall be in a state which is dangerous to passengers, the Commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunries.

sewer, drain, culvert or bridge, or for any other public purpose: Provided that the Commis-

purpose of constructing any

rivined that the Commissioners so closing lany public road shall be bound to provide reasonable means of access for persons occupying holdings

adjacent to such road.

Whenever, owing to such repairs or constructions or from any other cause 'any public road or 'part of a public road shall be in a state which is dangerous to passengers, the Commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunries.

Absolute closing of public road.

²201A. (1) If it appears to the Commissioners that any public road or part thereof—

 (a) threatens the stability or security of any hillside or bank or any immovable property thereon, or,

(b) in consequence of its condition or its situation with reference to any adjacent hillside or bank cannot be efficiently maintained or repaired except at a cost which, in their opinion, is unreasonable,

the Commmissioners may, by public notice, declare such road or part to be absolutely closed:

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings

¹ These words "any public road" and "part of a public road" were substituted for the words "any road" and "part of a road", respectively, for Darjeeling, by the Darjeeling Municipal Act, 1990 (Bea. Act 1 of 1900), s. 9, in Vol. III of this Code.

Sections: \$\frac{301}{2}\$ (Bea. Act 1 of 1900), s. 10, in Vol. III of this Code.

(Part V-Municipal Regulations which s'all be generally in force in all Municipalities.—Secs. 201B-201D.)

adjacent to such road or part, if no such means of access already exist.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in any manner the Commissioners may think fit:

Provided that, if the Commissioners determine to sell or to let on lease or otherwise transfer any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reason-

able rate.

¹ 201B. All private roads and bridges shall Control over be subject to the inspection and control of the and bridges. Commissioners.

¹201C. (1) Every person who intends to Control over construct, re-construct or after a private road or on attention bridge shall send to the Commissioners an of private road or bridge. application for permission to execute the work.

(2) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule A.

(3) Every person applying for permission to construct, re-construct or alter a private road must further mark out on the ground the alignment of the road, for inspection by the Commissioners or an officer authorized by them in that behalf.

(4) The permission referred to in sub-section' (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule A.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

¹201D. If it appears to the Commissioners 1 that any private road or bridge is so situated or is in such a condition as to threaten the stability or security of any hillside or bank or

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(Part V,—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 201E-201G.)

any immovable property thereon, they may, by written notice, require the owner—

- (a) to re-construct, re-grade, divert, alter or repair such road or bridge, or
- (b) to make a revetment or retaining-wall on either side or both sides of such road, or
- (c) to take such other order with such road or bridge as may be specified in the notice.

¹**201E.** If it appears to the Commissioners that waterway ought to be provided on any private road, or that the waterway provided on any private road ought to be enlarged, they may, by written notice, require the owner of the road--

- (a) to provide and maintain waterway, or
- (b) to enlarge the existing waterway,

as the case may require.

1201F. Whenever any private road or bridge is to be constructed, re-constructed, re-graded, diverted, altered or repaired, and whenever waterway for any private road is to be provided or enlarged, in pursuance of section 201C, section 201D or section 201E, the work shall be executed in accordance with the rules contained in Schedule A, so far as they are applicable to the particular case.

1201G. If it appears to the Commissioners that the existence of any private road threatens the stability or security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner to close the road and to take such order with the site thereof as they may consider necessary for the stability or security of such hillside, bank or property and as may be prescribed in the notice:

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense.

Provision or enlargement of water way on private road.

Rules as to construction, etc., of private roads and bridges.

Power to close private road.

² See foot-note 2 on page 776, exte.

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 202-204.)

202. The Commissioners may issue a notice requiring any Removal of the commissioners may be a notice requiring any future future. person to remove any wall which he may have built, or any obstra fence, rail, post or other obstruction or encroachment which he may have erected, in or on any road or open drain, sewer or in or on road aqueduct, after the date on which the District Muncipal Improvement Act, 1864, or the District Towns Act, 1868 or the Bengal Municipal Act, 1876, as the case may be, took effect in the municipality; or, in case none of the said Acts was in force In the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto:

and, if such person shall fail to comply with such requisition within eight day of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment; and the expenses thereby incurred shall be paid by the person

who crected the same. No person shall be entitled to compensation in respect of

the removal of any wall, fence, rail, post or other obstruction under this section.

203. If the person who built or erected the said wall, fence, rail, post or other obstruction or encroachment is not known or cannot be found, the Commissioners may cause a notice to be posted up in the neighbourhood of the said wall, found. fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition;

and, if the said wall, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within eight days of the posting up of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commis-

sioners or in a Court of competent jurisdiction.

204. The Commissioners may give notice in writing to the Projection house owner or occupier of any house requiring him to remove or erected it alter any projection, encroachment or obstruction erected or placed against or in front of such house which may have been so erected or placed after the date on which the District Municipal Improvement Act, 1864, or the District Towns Act, 1868 or the Bengal Municipal Act, 1876, as the case may be, took

Ben. Acts 8 of 1864 and 6 of 1868 "were" repealed by the Bengal Municipal Act, 1876 (Benct 5 of 1876), and the latter Act has been repealed by this Act—see Sch. VI, post, p. 869.
 The Bengal Act 5 of 1876 has been repealed by this Act—see Sch. VI, sost, p. 869.

(Part V.-Municipal Regulations shall be generally in force in all Municipalities .- Secs. 205-207.)

effect in the municipality; or, in case none of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto, if the same overhangs the road or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any road;

or obstructs, or projects, or encroaches into or upon any

aqueduct, drain or sewer in such road.

And, if such owner or occupier shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such projection, encroachment or obstruction be removed or altered, and thereupon the Commissioners may remove or alter such projection, encroachment, or obstruction, and the expenses thereby incurred shall be paid by the owner or occupier so making default.

No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment

under this section.

Effect of order made under section 202, 208, 204 or

Houses projecting beyond line of road or

205. Every order made by the Magistrate under sections 202, 203, 204 or 233 shall be deemed to be an order made by him in the discharge of his judicial duty, and the Commissioners shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act 18 of 1850 (for the protection of Judicial Officers). 1

Whenever any house, part of which projects beyond the regular line of a road or drain, or beyond the front of the house on either side thereof, shall be burnt down or otherwise destroyed, or shall be taken down in order to be rebuilt or repaired, the Commissioners may require the same to be set back, to, or beyond, the line of the road or drain, or the line of the adjoining house, and may pay reasonable compensation to the owner of such house if any damage shall be thereby sustained.

Fallen house, ato., obstruct-

drain to be

owner.

drain, when taken down to

be set back.

³ **207**. Whenever any private house, wall or other erection, or any tree, shall fall down and obstruct any public drain or encumber any public highway, the Commissioners may remove such obstruction or rncumbr ince at the expense of the owner of the same, or

207. (1) Whenever any Removal of building, wall, revetment or ing upon or other erection, or any part into public road or deal thereof, or any stone, tree, soil or debris from private premises, falls down and ohstrusts any public road or drain, the Commissioners may cause the obstruction to be removed.

materials fall

¹ The Judicial Officers' Protection Act, 1850. It is printed in the General Acts, 1884-87, Ed.

^{1909,} p. 89,

This section 307 applies to all municipalities in Bengal except Darjeeling.

The differences in the sections as applying to municipalities in Darjeeling and elsewhere lie in the words printed in Italics.

These ties tions 307 and 307A apply to the Darjeeling Municipality. They were substituted for the section 307 printed opposite to them, by the Darjeeling Municipal Act, 1809 (Ben. Act 1 of 1909), a. 11, in Vol. III of this Code.

(Part V.-Municipal Begulations which shall be generally in force in all Municipalities.—Sec. 207A.)

may require him to remove the same within such time as to the Commissioners shall seem fit.

(2) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to

take away the same.

(3) If, in the course of removing any obstruction under sub-section (1), it be found necessary to break up or blast any stone or to cut up any tree, the work shall be executed by the Commissioners; and. if any persons desire, in pursu-ance of a notice affixed under sub-section (2), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.

(4) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners the same shall become the property of the

Commissioners.

Commissioners.

1207A. If it appears to the Removal of Commissioners that any debris upon or into which has fallen upon or into private road with the control of drain. any private road or drain ought to be removed they may-(a) cause such debris to be

removed, at the expense of the owner of the road or drain, or (b) by written notice require the said owner to remove the debris.

Ben Act

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities,—Secs. 208-210.)

Commissioners may require land-

¹208. The Commissioners may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any road, and to cut and trim any trees thereon overhanging any road or tank, or any well used for drinking purposes, or obstructing any road or causing, or likely to cause, damage to any road or any property of the Commissioners, or likely to cause damage to any person using any road, or fouling or likely to foul the water of any well or tank.

Of General Conservancy and Improvement.

Wells, tanks, etc., to be secured.

Fencing of buildings in

209. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passengers, the Commissioners shall forthwith, if it appears to them to be necessary, cause a temporary hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land on which such tank, well or other excavation is situated, within seven days properly to secure or protect such well, tank or other excavation.

¹210. If any building, or portion of a building, or structure affixed to a building, be deemed by the Commissioners to be in a ruinous state and dangerous to the inmates, if any, of such building or of any other building or to passersby, or if any wall or other structure be deemed by the Com-missioners to be in a ruinous state and dangerous to

passers-by or to any other persons,

they shall forthwith, if it appears to them necessary, cause a proper hoard or fence to be put up for the protection of passers-

by or of other persons who may be endangered,

and may require the owner or occupier of the building or the owner or occupier of the land to which such building, wall or other structure is affixed, within seven days, to take down, secure or repair such building, wall or other structure, as the case may require.

² This section was substituted for the original s. 208 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 58, in Vol 111 of this Code. The original section ran

⁵This section was substituted for the original section 210 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 59, in Vol. III of this Code.

(Part V.-Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 210A-210C.)

¹210A. Whenever it appears to the Commissioners that any commisbuilding, by reason of being unsecured and untenanted, or by stoner may require reason of having fallen into ruins, affords facilities for the owners to commission of a nuisance or for the harbouring of snakes or ruins. other noxious animals, the Commissioners may require the owner of such building or the owner of the land to which such building is attached, to properly secure the same, or to remove or level such ruins, as the case may require.

ins, as the case may require.

2 210B. If it appears to the Commissioners that buildings, or any buildings, or any of a building, or any any building or portion of a building, or any thing affixed to a building or any wall or the stability structure on any land, is in such a condition as to threaten the stability or security of any property. hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of such building or land-

- (a) to take down such building, portion, thing, wall or structure and remove the materials, or
- (b) to secure or repair such building, portion, thing, wall or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice, and,

(c) in case (a), also to take such order with the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon, as may be prescribed in the notice.

² 210C. If it appears to the Commissioners Powers where that the condition or situation of any hillside or bank, being private property, is such as to threatens the threaten the safety of any building, and that the buildings. safety of such building cannot be ensured by taking action under section 248A, and also that such building threatens the safety of some other building, they may, by written notice, require the owner of such first-mentioned building-

hillside or bank

(a) to take down the building and remove the materials, or

Section 210 A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 60, in Vol. III of this Code.
 Sections 210 B and 210 C were inserted, for the Darjeeling Municipality, by the Darjeeling minipal Act, 1990 (Ben. Act. 1 of 1990), s. 12, in Vol. III of this Code.

man: Abt b

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 211-215.)

(b) to secure the building in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice,

and may also, by written notice, require the owner of such other building to secure the same, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice.

Power to enter upon possession of houses so repaired. 211. If the Commissioners shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

Sale of materials of houses, etc., pulled down. 212. The materials of anything which shall have been pulled down or removed under the provisions of section [175 and] 210 may be sold by the Commissioners, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale-proceeds (if any) shall be credit d to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners

or in a court of competent jurisdiction.

Stray dogs to be killed at certain appointed periods. 213. The Commissioners may, by published order, appoint from time to time certain periods within which any dogs without collars or other marks distinguishing them as private property, found straying in the roads or beyond the enclosures of the houses of the owners of such dogs, may be destroyed; and such dogs may be destroyed in accordance with such order.

214. The Commissioners at a meeting may offer rewards for the destruction of noxious animals within the limits of a municipality.

Commissioners may offer rowards for destruction of noxious animals.

215. The Commissioners at a meeting may cause a name to be given to any road and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of roads and numbers of houses.

¹ The Egures and word "175 and", in s. 212; were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act & of 1894), s. 61, in Vol. III of this Code.

(Part V.—Municipal Regulations which shall be yenerally in force in all Municipalities.—Secs. 216, 217.)

Penalties.

216. Any person who in any municipality-

(1) places or allows his servants to place rubbish on a under section 180 and 216. public road at other than the times appointed by the Commissioners under the provisions of section 189;

(2) destroys, pulls down, defaces or alters any name or number put up by the Commissioners under the authority of section 215,

shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

217. Any person who, in any municipality,—

(1) being the occupier of a house in or near a public road keeps, or allows to be kept, for more than twentyfour hours, or for more than such shorter time as may be prescribed by a bye-law, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter. in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same ; or

Occupier not

(2) keeps any public necessary without a license from the Keeping Commissioners under section 194, or, having a uniformed license for a public necessary, suffers such necessary necessary. to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same; or

(3) being the owner or occupier of any private drain, privy or cesspool, neglects or refuses, after warning from the Commissioners, to keep the same in a proper order. state; or

(4) disobeys an order passed by the Commissioners under the provisions of section 199 ¹[or 199 A]; or the provisions of section 199 ¹[or 199 A]; or the provision of section 199 or 199 crips and the provision of the provisio erecting any wall, fence, rail, post or other obstruction,

shall, for every such offence, be liable to a penalty not exceeding fifty rupees. ري وميس

h Tub Word and Sgures "or 199 A," in s. 317 (6), were inserted by the Bengal Municipal mendment) Act, 1894 (Ben. Act 4 of 1894), s. 62, in Vol. III of this Orde.

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(Part V.-Municipal Regulations which shall be generally in force in all Municipalities .-- Part VI.-Of Special Regulations.—Secs. 218-220.)

Disobeying requisition under section 202, 204, 206, 207 or 208.

¹218. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of sections 202, 204, *206, 207 or 208, shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty, not exceeding ten rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

2218. Whoever, being an Disobeying owner or occupier of any requisition under section house or land within a muni- 202, 204 or cipality, fails to comply with a requisition issued by the Commissioners under the provisions of sections 202, 204, 206, ** * shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty, not exceeding ten rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Disobeying requisition 210 or 210 A

219. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with any requisi-tion issued by the Commissioners under the provisions of sections 195, 200, 209, [210 or 210 A] shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty, not exceeding twenty rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

PART VI.

OF SPECIAL REGULATIONS.

Saving clause.

220. No provision contained in this Part, or in Parts VII, VIII, IX or X, shall apply to any municipality, unless and until it has been expressly extended thereto by the Local Government in the manner provided by the next succeeding section:

Provided that, except as is otherwise provided by this Act, in the case of any municipality to which all the provisions

¹ Section 218 applies in this form to all municipalities in Bengal except Larjeeling. The only difference in the section as applying to municipalities in Darjeeling and elsewhere lies be matter printed in italics.

The only difference in the section as applying to municipalities in Darjeeling and elsewhere lies in the matter printed in italics.

* Section 218 applies in this form to the Darjeeling Municipality.

* The reference to sections 206 and 207, in s. 218, was inserted by the Bengal Municipal (Afmendment) Act, 1894 (Ben. Act 4 of 1894), s. 63, in Vol. III of this Code.

* The references to sections 207 and 208 was repealed, in the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23, and is here contited.

* The original interpretation of the continuous continuous

(Part VI.—Of Special Regulations.—Secs. 221-223.)

of any one of the Parts VII, VIII or IX of the Bengal Municipal Act, 1876, may have been extended, and provided that such provisions were still in force in such municipality immediately before the commencement of this Act; all the provisions of the corresponding Part of this Act, namely, of Parts VI, XI or X, respectively, shall be, and shall be deemed to have always been, in force in such municipality without such provisions being expressly extended thereto:

Ben. Act 1 of 1900.

² Provided also that the provisions enacted by the Darjeeling Municipal Act, 1900, shall take effect in the Darjeeling Municipality without extended being expressly thereto.

221. The Commissioners may apply, in pursuance of a Local Governresolution passed at a meeting specially convened to consider the question, to the Local Government, to extend to the municipality all or any of the provisions of this Part, or of Parts to be in force.

VII, VIII, IX or X, or to exclude from the operation of the said provisions, or any of them any place. said provisions, or any of them, any place within the municipality.

And the Local Government may thereupon make an order.

accordingly.

222. Every such order shall be published in the Calcutta Publication of Gazette, and the Commissioners shall, within fifteen days of such publication, cause a copy of the same, with a translation thereof into the vernacular of the district, to be posted up at their office, with a notice of the date on which such order shall take effect, and shall cause the same to be published as prescribed in section 354.

And the said provisions shall come into force in the muni-

cipality from the date so fixed:

Provided that the date so fixed shall not be less than fifteen days after the publication under the said section, or more than three months after the publication of the order of the Local Government as aforesaid in the Calcutta Gazette.

223. The Local Government, on a similar application Local Gove made by the Commissioners, may, at any time, cancel or ment may modify an order made under section 221, and such cancellation modify order. or modification shall be published and shall take effect in the manner prescribed by the last preceding section.

¹ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), has been repealed by s. 2 of this Act—see

¹ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), has been repeated by s. 2 of this Act—see

Sch. VI, post, p. 869.

a This provise was added to s. 220, for the Darjeeling Municipality, by the Darjeeling Municipal
Act, 1900 (Ben. Act 1 of 1900), s. 18, in Vol. III of this Code.

a For a list of orders made under section 221 for Bengal as constituted on the first March, 1912,
see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

a For a list of orders made under section 223 for Bengal as constituted on the 31st March, 1913,
see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VI.—Of Special Regulations.—Secs. 223A-224B.)

OF A SURVEY.

Survey of a municipality.

1223 A. The Commissioners at a meeting may order that a survey shall be made of the lands situated in the municipality, and thereupon all the provisions of the Calcutta Survey Act, 1887,2 shall, so far as may be practicable, apply and be extended to such municipality.

OF PRIVIES, DRAINS AND EXCAVATIONS.

Commissioners may require nocupier to repair drain,

³224. The Commissioners may require the owners or occupiers, or the owners and occupiers, of any land, within fifteen days, to repair and make efficient any drain, privy or cesspool, or to remove any privy or close any cesspool which is situated on such land.

1224. The Commissioners Commissioners may require the owners of require owners occupiers, or the owners and occupiers, of any land, within privy or complete to repair and make efficient any and privy or complete. or cesspool, or to remove any privy or close any cesspool which is situated on such land.

Power to define limits of ikoras, etc.

Control over construction or alteration of private drains.

⁶224A. The Local Government may, by notification in the Calcutta Gazette, define, for the purpose of this Act, the limits of any jhora, water-course, channel or natural drainage line.

⁶ 224B. (1) Every person who intends to construct, re-construct, alter, stop up or obstruct any private drain shall send to the Commissioners an application for permission to execute the work.

(2) Every such application shall be accompanied by a general description of the drain.

(3) The permission referred to in subsection (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think at to impose in accordance with rules contained in Schedule B.

¹ This heading and s. 223A were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 66, in Vol. III of this Code.

² Printed post, p. 983.

³ Section 224 applies in this form to all municipalities in Bengal except Darjeeling.

The only difference in the section as applying to municipalities in Darjeeling and elsewhere the in the word printed in Italics.

⁴ Section 224 applies in this form to the Darjeeling Municipality.

⁵ Section 224 applies in this form to the Darjeeling Municipality.

⁵ Section 224 applies in this form to the Darjeeling Municipality.

⁶ Section 224 applies in this form to the Darjeeling Municipality. They was inserted by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 18, in You III 38 play Code.

(Part VI.-Of Special Regulations.-Secs. 224C-227.)

(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

1 224C. The Commissioners may, by writtion, repair, ten notice, require the owner of any building or extended of the control o ¹ 224C. The Commissioners may, by writ- Reconstrucland-

- (a) to re-construct, enlarge, extend, alter, repair, make efficient, stop up or remove any drain belonging to such building or land, or
- (b) to alter the inclination or direction of any such drain, or
- (c) to provide moveable coverings or gratings for any such drain of such nature as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet or of junction with some other drain as may be specified in the notice.

225. Every person constructing a privy shall have such privy shut out by a sufficient roof and wall or fence from the enclosed. view of persons passing by, or residing in, the neighbourhood: and the Commissioners may require any owner or occupier of land on which a privy stands to cause the same to be shut out from view as aforesaid within fifteen days.

Privies must

226. If any person, without the written consent of the Unauthorized Commissioners first obtained, makes or causes to be made, or intopublic alters, or causes to be altered any drain leading into any of demolished. the sewers or drains vested in the Commissioners, the Commissioners may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit; and the expenses thereby incurred shall be paid by the person making

or altering such branch drain.

Commissioners

If any land, being ² **227**. within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the Commissioners, be drained. is not drained to the satisfaction of Commissioners. the

227. If any building or Power to land is not drained to the require satisfaction of the Commissioners, they may, by written notice, require the owner to provide a drain therefor; at such inclination, and to such the point of outlet or of junction

¹ Nec foot-note 6 on page 788 anic.

3 Section 227 applies in this form to all municipalities in Bengal except Darjeeling.

3 Section 227 applies in this form to all municipalities in Derjeeling and elsewhere lie in the words printed in italics.

3 Section 227 applies in this form to the Darjeeling Municipality. It was ambatituted for the section printed apposite to it, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1908 (Ben. Act 1 of 1995), 2 15, in Vol. III of this Code.

Group or block of houses etc.,

may be drained by

a combined operation.

(Part VI.—Of Special Regulations.—Secs. 228, 229.)

Commissioners may require the with some other drain. owner within one month to drain the said land into such sewer, dr in or outlet.

If it appear to ¹ 228. the Commissioners that a group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer, drain or other outlet already exists within one hundred feet of any part of such group or block of houses, the Commissioners may cause such group or block of houses, to be so drained and improved;

and the expenses thereby seem, fit.

incurred shall be recovered from the owners of such houses, in such proportions as shall to the Commissioners

¹229. If any branch drain, privy or cesspool be constructed contrary to the directions and regulations of the Commissioners, or contrary to

the provisions of this Act, or

may be specified in the notice.

² 228. (1) If it appears to drainage in commissioners that any combination the Commissioners that any buildings or lands belonging to different owners can be drained, or the drainge thereof improved, more economically or advantageously in combination than separately, the Commissioners may cause such buildings or lands to be drained, or the drainage thereof to be improved, in such manner as they may consider suitable.

(2) The Commissioners may cause any drain whichhas been provided or improved under sub-section (1) to be maintained or repaired in such manner as they may consider suitable.

(3) All expenses incurred under sub-section (1) or subsection (2) in connection with the drainage of any buildings or lands shall be paid by the owner of such buildings or lands, in proportion to the benefits derived by them respectively.

(4) The saidproportion shall be determined by the Commissioners.

229. If any privy or cesspool be construct- privy, etc., ed contrary to the directions made contrary to the directions and regulations of the Com- orders. missioners, or contrary to the provisions, of this Act, or

s Commission may alter :

Commissioners may alter any drain, etc., made contrary to their orders.

¹ Section 228 applies in this form to all municipalities Bengal except Darjeeling.
The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

*Section 228 applies in this form to the Darjeeling Municipality. It was substituted for the section printed opposite to it, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1904), s. 15, in Vol. III of this Code.

*Section 239 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italies.

*Section 239 applies in this form to the Darjeeling Municipality.

*Section 239 applies in this form to the Darjeeling Municipality.

*Best in 239 applies in this form to the Darjeeling Municipality.

*Best much of a 129 as relates to drains having been repealed in the Darjeeling Municipality by the Uarjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 25, the words "branch drain "are omitted bess.

(Pirt VI.-Of Special Regulations.-Secs. 229-231.)

if any person, without the consent of the Commissioners, constructs, re-builds or unstops any branch drain, privy or cesspool which has been ordered by them to be demolished or stopped up, or not to be made, the Commissioners may cause such amendment or alteration to be made in any such drain, privy or cesspool as they think fit, or may cause the same to be removed;

and the expenses thereby incurred shall be paid by the person by whom such drain, privy or cesspool was improperly constructed, re-built or

unstopped.

if any person without the consent of the Commissioners, constructs, re-builds, or un-1 privy stops any or cesspool, which has been ordered by them to be demolished or stopped up, or not to be made, the Commissioners may cause such amendment or alteration to be made, in any such * * * privy or cesspool as they think fit, or may cause the same to be removed;

and the expenses therby incurred shall be paid by the person by whom such privy or cess-pool was improperly constructed, re-built or

unstopped.

Whenever ¹ 229A. private drain is to be con-construction, of private structed, re-constructed, en- drains. extended, altered. repaired or otherwise dealt with in pursuance of section 224B, section 224C, section 227or section 228, the work shall be executed in accordance with the rules contained in Schedule B, so far as they are applicable to the particular case.

any Rules as to

230. No person shall, without the written permission of the Commissioners, construct or keep any latrine, urinal, cesspool, house-drain or other receptacle for sewage or other feet of tank or offensive matter within fifty feet of any public tank or water-course. course, or a tank or water-course which the inhabitants of any locality use.

The Commissioners may require any owner and occupier upon whose land any latrine, urinal, cesspool, house-drain or other receptacle so situated exists, or may hereafter be constructed, to remove the same within eight days.

231. No person shall, without the written permission of the Construction Commissioners, construct a privy with a door or trap-door opening on to any road or drain. The Commissioners may

¹ So much of s. 229 as relates to drains having been repealed in the Darjesling Municipality by the Darjesling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23, the words "branch drains on the Darjesling Municipality by the Darjesling Municipality by the Darjesling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23, the word "drain" is omitted here.

2 Section 239A applies only to the Darjesling Municipality. It was inserted by the Darjesling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 18, in Vol. 111 of this Code.

(Part V1.-Of Special Regulations.-Secs. 232, 233.)

require any owner or occupier upon whose land any such privy exists to remove the same within eight days.

Power to prohibit excavations.

232. The Commissioners at a meeting may, by a general order, prohibit the making of excavations for the purpose of taking earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein, and digging of cesspools, tanks or pits without special permission previously obtained from them.

If any such excavation, cesspool, tank, or pit is made after the issue and publication of such order without such special permission, the Commissioners may require the owners and occupiers of the land on which such excavation, cesspool, tank or pit is made, within two weeks, to fill up such excavation.

OF OBSTRUCTIONS AND ENCROACHMENTS ON ROADS.

Removal of existing projections from bouses.

233. The Commissioners at a meeeting may determine on the removal or alteration, as they shall think fit, of any projection, encroachment or obstruction which may have been erected or placed against, or in front of, any house on any road within the limits of the municipality before the date on which the District Municipal Act, 1864,2 or the District Towns Act. 1868,2 or the Bengal Municipal Act 1876, as the case may be, Ben Act 8 of came into force in the municipality, or in case none of the said Ben Act 6 of Acts was in force in the municipality before the commencement less. Acts of this Act, then before the date on which this Act may have from hones. been extended thereto.

Notice in writing shall be given to the owner or occupier of such house requiring him to remove or alter the said projection, encroachment or obstruction, or to show cause before the Commissioners why he should not be required so to do;

and, if such owner or occupier shall fail to comply with such requisition within thirty days of the receipt of the same, or if after such owner or occupier shall have shown cause against being required to remove or alter the said projection,

¹ Section-657 applies to all municipalities in Bengal except Darjesting, having been repealed in the Darjesting Eumicipality by the Darjesting Municipal Act, 1900 (Ben. Act 1 of 1900) a. 25. Ben. Acts 5 of 1854 and 6 of 1866 were repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1875), and the latter Act has been repealed by this Act—see Sch. VI, post, p. 489. The Bengal Act 5 of 1874 has been repealed by this Act—see Sch. VI, post, p. 489.

#7 1884.7

(Part VI.-Of Special Regulations.-Secs. 234-236.)

encroachment or obstruction, the Commissioners shall make an

absolute order directing such removal or alteration;

and, if such owner or occupier shall fail to comply with such order within fifteen days of the date of the same, the Magistrate may, on the application of the Commissioners, order such projection, encroachment or obstruction to be removed or altered; and thereupon the Commissioners may remove or alter such projection, encroachment or obstruction.

The Commissioners shall make reasonable compensation to every person who suffers damage by any removal or alteration

under this section.

In determining the amount of compensation, the value of the land shall not be taken into consideration.

234. The Commissioners may grant permission to any Leave to person, for such period as they may think fit, to deposit any deposit materials on, or to make an excavation in excavate or any road, or to enclose the whole or any part of any road, and close, a road. may charge such fees as they may fix for such permission:

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

235. Every person intending to build or take down any Hoards to be house, or to alter or repair the outward part of any house, shall, not up during if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up a hoard or fence without the written permission of the Commissioners, nor shall he keep up the said hoard or fence for a time longer than

allowed in the said written permission.

OF BUILDING REGULATIONS.

2 BUILDING REGULATIONS.

¹**236.** The Commissioners Roofs and external walls not at a meeting may, by an order published in the manner in section 354, prescribed material.

2 3 236. (1) Except with the Prohibition previous written permission of of inflamthe Commissioners, external materials poofs or walls of buildings for roofs or roofs or walls of buildings,

Bection 286 applies in this form to all municipalities in Bengal except Darjeeling.

The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

Bection 286 applies in this form to the Darjeeling Municipality.

the words printed in italics.

Bection 286 applies in this form to the Darjeeling Municipality.

These as. 286 to 244Z and the headings prefixed thereto were substituted for the former as. 286 to 244, and heading for the Darjeeling Municipality by the Darjeeling Municipality att 1910 (Ben. Act 1 of 1900), s. 17, in Vol. III of this Code.

4 These words and figures "by an ordered published in the manner prescribed in section 354" were inserted in this section by the Hengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 87, in Vol. III of this Code.

(Part VI.-Of Special Regulations.-Sec. 237.)

direct that within certain limits, to be fixed by them, the external roofs and walls of huts or other buildings which may thereafter be erected, or the roofs or walls of which may thereafter be renewed or repaired, shall not be made of grass, leaves, mats or other inflammable materials.

shall not, after the mencement of the Darjeeling Municipal Act, 1900, be made Ben. Act 1 of of grass, leaves, mats, canvas, 1906. shingles or other inflammable material.

(2) The Commissioners may, by written notice, require the owner of any building situated in or near a road and contiguous to or adioining any other building, and having, at the commencement 1 of the Darjeeling Municipal Ben. Act 1 of Act, 1900, an external roof or wall made of any such in flammable material aforesaid, to remove or alter such roof or wall.

(3) Sub-sections (1) and (2) shall not apply to any garden, hut, orchid-house, fernery or other similar structure within a compound, unless in any particular case the Commissioners consider any such structure to be dangerous.

*237. After the commencement of the Darjeeling sites, and Municipal Act, 1900, no land erection, shall be used as a site for the re-erection or alteration of buildings. terution of a Ben. Act 1 of erection, material alteration of building, and no building 1900. shall be erected, re-erected or materially altered, otherwise than in accordance with the provisions of this Act, and

237. (1) Every person who intends to erect or reerect any house, not being a hut, shall give notice in writing of his intention to the Commissioners, and accompany such notice with a general description of the building which he intends to erect, and of the provision he intends to make in respect of

**, the \$\frac{\pi_k}{2}\$ Kycch, 1900.

These sa. 287 to 241 were substituted for the original sa. 287 to 241 by the Bengal spal (Amandment) Act, 1894 (Ben. Act 4 of 1894), a 68, in Vol. III of this Code, and apply municipalities in Bengal actopt Darjesling.

\$\frac{\pi_k}{2} \text{top} = \frac{\pi_k}{2} \text{top} = \frac{\pi_k}{2}

(Part VI.-Of Special Regulations.-Secs. 238, 239.)

drainage and latrine accommodation; and the Commissioners may within six weeks after the receipt of such cither refuse to notice, sanction the said building or sanction the building either absolutely or subject to any written directions which the Commissioners may deem fit to issue in accordance with the rules, if any, made under sections 241:

Provided that the Commissioners shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any house, or of their requiring any land belonging to him to be added to the street.

person giving (2) Any notice to the Commissioners under this section shall, if required to do so by any rule,1 forward with his notice a plan and specification of the house, not being a hut, which he intends to erect or re-erect, together with a site-plan of the land, of such character, and with such details as the rule may require; and no notice under this section shall be valid until such plans and specification have been supplied.

² 238. (1) Should person commence to erect or re erect such house, not being a hut, without giving notice, notice, etc., to be sitered or demolished. or without submitting such plans and specification as

Commissioner:

may order a house not being a hut erected

without

any rules, by-laws or orders made under this Act, relating to the use of building-sites or the erection, re-erection or material alteration of buildings, as the case may be.

*MASONRY BUILDINGS AND FRAMED BUILDINGS.

238. (1) Every person Application who intends-

(a) to erect or re-erect a for erection re-erection masonry or framed or material alteration of building, or

building, or a masonry

(b) to materially alter a or framed building. masonry or framed building in manner referred to in sub-clause (e), sub-clause (f), subclause (g), subclause (h), or subclause (j) of clause (27) of section 6,

shall send to the Commissioners an application for approval of the site, together with a site-plan of the land.

(2) Every such application and site-plan shall contain the . particulars and be prepared in the manner prescribed in this behalf in Schedule C.

239. Within thirty days Approval of after the receipt of any site when to be given application made under section or refused. 238 for approval of a site, or of any information or further information required under

¹ For a list of rules, made for Bengal as constituted on the Slat Haron, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 2, Pt. VI.

² See foot-note ³ on page 794, anse.

See foot-note ³ on page, 795 anse.

(Part VI.-Of Special Regulations.-Secs. 239, 240)

aforesaid, for without waiting for the orders of the Commissioners for six weeks from the date of his giving notice in writing under section 237], or in contravention of any legal order of the Commissioners issued within six weeks of receipt of a valid notice under the last preceding section, the Commissioners may, by notice, to be delivered within fifteen days, require the building to be altered or demolished, as they may deem necessary.

(2) Should the Commissioners neglect or omit for six weeks after the receipt of a valid notice under the last preceding section to make and deliver to the person who has given such notice any order in respect thereof, they shall be deemed to have sanctioned the proposed house absolutely:

Provided that no rule under section 241 and no legal order shall be held to have been contravened by anything done in accordance with plans and specifications forwarded to the Commissioners under section 237 and not objected to by them.

239. Every sanction for the erection or re-erection of any house, not being a but, which shall be given or deemed to be given by the Commissioners, shall be available for one year from the date on which the notice shall have become valid and complete,

Schedule C, the Commissioners shall, by written order. either-

- (a) approve the site. subject to such conditions or modifications (if any) as may be specified in the order, or
- (b) refuse, on one or, more of the grounds mentioned in section 244B, to approve the site.

³**240.** (1) Every who intends to erect, re-erect for permissic or materially alter a masonry re-creet or framed building shall send alter a large state of the state o person Application the Commissioners an masonry or framed application for permission to building. execute the work, together with a plan of the building, complete elevations sections of the work, and a specification of the work.

(2) Every document referred to in sub-section (1) shall contain the particulars and be prepared in the manner prescribed in this behalf

Schedule C.

(3) Every application under sub-section (1) for permis-

> (a) to erect or re-erect a masonry or framed building, or

(b) to materially alter a masonry or framed building, in the manner indicated in clause (b) of section 238.

available for one year

Sanction

¹ These words and figures in square brackets in this section 238 were inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 12, in Vol. III of this Code.

See foot-note 2 on page 794, anta.

(Part VI.-Of Special Regulations.-Secs. 240-242.)

and no longer; and should the house so sanctioned not have been begun by the person who has obtained such sanction, or some one lawfully claiming under him within such year, it shall not be begun without fresh sanction, but such person as aforesaid may, at any subsequent time, give fresh notice to the Commissioners in the manner hereinbefore prescribed, and thereupon the provisions hereinbefore contained shall apply to such notice.

Definition of ¹**240.** The expression expression "erect or "erect or re-erect any house, not being a hut," as used in re-erect any house, not being a hut." two last preceding sections, includes :-

> (a) any material alteration or enlargement of any building;

> (b) such alterations of internal the arrangements of a house as effect an alteration of drainage or sanitary arrangements. affect its stability.

¹**241.** (*I*) The Commissioners at a meeting may from time to time make, repeal or alter, rules to regulate the erection or re-erection of houses, not being huts, within the municipality in respect of all or any of the following matters:-

> materials (a) the method of construction to be used for external and party

must be sent either together with the application sent under section 238 or within a period of six months from the issue, under this Act, of the order (if any) approving the site; and, if any such application be sent after the expiration of the said period, it shall not be received unless a fresh application is made under section 238 for approval of the

or re-creek a masonry or re-creek a materially 2241. Permission to erect Permission framed building, or to materially alter a masonry or masonry or framed building in the manner framed indicated in clause (b) of not to be section 238, shall not be given given unless and until unless and until the Commis- site sioners have approved the site sproved. on an application sent to them under section 238.

2242. The erection, re- Work not erection or material alteration to be commenced of a masonry or framed until building shall not be compensated menced unless and until the granted. Commissioners-

(a) have granted written permission for the execution of the work on an applicacation sent to them under section 240. or.

(b) where an appeal or reference has been made to the Engineer appointed under section 351 D-have received orders from the Engineer determining that permission to

permission

Power of the Commissioners to make rules as to mode of construction of houses ot being huts.

See foot-note on page 794, anic.
 See foot-note on page 798, anic.
 For a list of rules made under a. 241 (1)-for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

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(Part VI.-Of Special Regulations.-Secs. 213-214A.)

walls, roofs, floors, fire-places and chimneys;

(b) the provision, position and ventilation of drains, privies and cesspools:

(c) the free passage or way in front of the house;

- (d) the space to be left about the house to secure free circulation of air and scavenfacilitate gering, and for the prevention of fire;
- (e) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on:
- (f) the level and width of the foundation, the level of the lowest floor, and the stability of the structure;
- g) the number and height of the storeys of which the house may consist;
- (h) the means to provided for egress from the house in case of fire;
- (i) the line of frontage with neighbouring houses if the house abuts on a street.
- (2) Rules under this section. not inconsistent with the Act, shall be subject to the sanction of the Local Government, and shall, if sanctioned, be published in such manner as the Local Government may direct, and shall have the force of law.

execute the work should be granted.

after the receipt of any work when application made under section granted or 240 for permission to execute refused. any work, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either-

> (a) grant permission to execute the work, subject to such conditions or modifications (if any) as may be specified in the order, or

(b) refuse, on one or more of the grounds mentioned in section 244C, to grant such permission:

Provided that, where the approval of a site is required by this Act, the said period of thirty days shall not in any case begin to run until the site has been approved under this Act.

1244. Whenever the Com- Record of missioners refuse to approve reasons when a site for the erection, re-erec- approvation or material alteration of refused. a masonry or framed building, or to grant permission to erect. re-erect or materially alter such a building, they shall state specifically the grounds for such refusal.

244A. If, within the Beference to period prescribed by section appellate Engineer it grand or section 243, as the case grand or refusal of may be, the Commissioners approval or permission is have neither given nor refused delayed. their approval of a buildingsite or their permission to execute any. work, as the case may be, the Engineer appointed

of 1864_1

(Part VI.-Of Special Regulations.-Secs. 242-244B.)

(3) If in and during the erection or re-crection of any house, any rule under this section is contravened, the Commissioners may, by notice to be delivered within fifteen days, require the building to be altered, or, if necessary, demolished, within the space of thirty days, so as to secure conformity to such rule.

(4) This section shall not take effect in a municipality until it has been specially extended thereto by the Local Government at the request of the Commissioners at

meeting.

2242. The Commissioners may prohibit the owner of any house, not being a hut, from letting it for occupation, if in their opinion it is unstable, or if the drainage or latrine accommodation of such house is in their opinion defective, until its stability shall have been secured or such defects in drainage or latrine accommodation shall have been made good to their satisfaction.

3242A. (1) Any person aggrieved-

- (a) by the prohibition by the Commossioners under section 237 of the crection or reerection of a house. not being a hut, or
- (b) by a notice from the Commissioners

under section 351'D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith. by written order, whether such approval or permission

should be given or not.

'244 B. The only grounds Grounds on which on on which approval of a site for which approval of the erection, re-erection or site may be material alteration of refused. of material alteration H masonry or framed building may be refused are the follow-

ing, namely :-

(1) that the site is not, in Commissioners, or reference been made to the Engineer appointed under section 351 D) the Engineer, a safe site for the erec-

> alteration building;

(2) that the erection, re-erection or alteration of the building upon the site would. in the opinion of the Commissioners. (where an appeal or reference has been made to the Engineer appointed under section 351 D) the

the opinion of the (where an appeal

tion, re-erection or

of the

Darjeeling.

4 See foot-note 2 on page 798, ante.

Commission-

ers may

rohibit

prohibit letting of unstable or

ill-drained

Appeals from orders of Com-missioners.

¹ For a list of orders made under s. 241 (4) for Bengal as constituted on the 21st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI, opposite s. 221 of Ben. Act 3 of 1884.

§ This section 242 was substituted for the original section by the Bengal Municipal Amendment) Act, 1834 (Ben. Act 4 of 1894), s. 69, in Vol. III of this Code, and applies to all municipalities in Bengal except Darjeeling.

§ This section 242 A was inserted by the Bengal Municipal (Amendment) Acts—1884 (Ben. Act 4 of 1894), s. 70, in Vol. III of this Code, and applies to all municipalities in Bengal except Darjeeling.

(Part VI -Of Special Regulations.-Secs. 243, 244C.)

under section 238 or sub-section (3) of section 241, requiring the alteration or demolition of a building, or

(c) by any order made by the Commissioners under the powers conferred upon them by sect on 242,

may appeal within thirty days from the date of such prohibition, notice or order, to the Commissioners; and every such appeal shall be heard and determined by not less than three Commissioners, shall be appointed in that behalf by the Commissioners at a meeting, and no such prohibition, notice or order shall be liable to be called in question otherwise than by suce appeal.

(2) The appellate authority may, for sufficient cause, extend the period allowed by sub-section (1) of this section

for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the Commissioners have had reasonable opportunity of being heard.

1243. It shall not be lawful for any person to erect a hut, or any range or block of huts or sheds, or to add any hut or shed to any range or

Engineer, threaten stability the security of some hillside or bank or immovable some property thereon;

- (3) that any particulars comprised in the site-plan would contravene some specified provision of this Act or some specified rule, bylaw or order made hereunder;
- (4) that the application for such approval, or the site-plan, does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or
- (5) that any information required under the said Schedule has not been duly furnished.

244 C. The only grounds Grounds on on which permission to erect, which permission to re-erect or materially alter a execute works may be masonry or framed building may be refused, may be refused are the following, namely :-

> (1) that, having regard to the site, to the plan of the building, to the elevations, sections and specification of the work, and to the information and documents (if any) furnished to the the Commissioners, in the building, opinion of the

w huts to trol of the Commis-

¹ This section 248 applies to all municipalities in Bengal except Darjeeling.
See foot-note ⁶ on page 798, sats.

(Part VI.-Of Special Régulations.-Sec. 244))

block already existing, or to enlarge any existing hut, without '[one month's] previous notice to the Commissioners: and the Commissioners may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of [each line] and between ³ [every two lines] of such width as they may think proper for ventilation and to facilitate scavengering, and with such number of privies, and with such means of drainage, as to them may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest street.

Power to direct removal of huts built without notice.

1244. If any such huts or sheds be built without giving such notice to the Commissioners, or otherwise than as required by the Commissioners, the Commissioners may require the owners of the land on which such huts and sheds are built, and the occupiers of such huts and sheds, to take down and remove the same within one month, or to effect such alterations as they may deem necessary.

Commissioners, (where an appeal or reference has been made to the Engineer appointed under section 351 D) the Engineer,-

- (a) would not be safe for human habitation, or
- (b) would threaten the stability or security of some hillside or bank or some immovable property thereon;
- (2) that the work, or any of the particulars comprised in the building-plan, elevations, sections or specification, would contravene specified provision of this Act or some specified rule, bylaw or order made hereunder;
- (3) that the application* for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or
- (4) that any information required under the said Schedule has duly not been furnished.

¹ These words "one month's", in this s. 248, were inserted by the Bengal Municipal Amendment)

Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

§ These words "each line", in this s. 248, were inserted by the Bengal Municipal (Amendment)

Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

§ These words "every two lines", in this s. 248, were substituted for the words "each line" by the series of the words "every two lines", in this s. 248, were substituted for the words "each line" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

(Part. VI. Of Special Regulations. Secs. 244 D-244G.)

Lapse of permission if ot acted upon within six months.

1.1244D. (1) If the erection or re-erection of any masonry or framed building, or the material alteration of any such bu lding in the manner indicated in clause (b) of section 238, is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until fresh applications have been made under sections 238 and 240 and fresh approval and permission have been given under this Act.

.(2) If any other material alteration of a masonry or framed building is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made under section 240 and a fresh permission granted under this Act.

¹244 E. (1) When any site, after having been approved under this Act, has been prepared for building-work, the owner of the building shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such

(2) The Commissioners, or the Municipal Engineer, if authorized by them in that behalf, may thereupon inspect the site; and, if it appears to the Commissioners that the site is in such a condition as to render the building unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immovable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

1244 F. Within fifteen days after the erection, re-erection or material alteration of any masonry or framed building has been completed, the owner shall send to the Commissioners a written notice of the fact.

1244 G. The Commissioners, or any officer authorized by them in that behalf, may, at any

time during the erection, re-erection or material alteration of any masonry or framed building,

Notice before commencing building-work, d inspection of site.

(Part VI.-Of Special Regulations. Secs. 244H-144K.)

or within one month after the receipt of the notice sent under sect on 244 F with respect to any building, inspect such building, without giving previous notice of the intention so to do.

244 H. (1) If, when any such inspection Power on is made, the Commissioners find that the build-building. ing is being or has been constructed-

(a) otherwise than in accordance with the plans approved under this Act, or

(b) in such a way as to contravene any, of the provisions of this Act or any rule, by-law or order made hereunder,.

they may, by written notice, require the owner of the building, either-

- (i) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or
- (ii) to appear before them and show cause why such alterations should not be
- (2) If such owner does not appear and show cause as aforesaid, he shall be bound to make the alterations specified in such notice.
- (3) If such owner appears and shows cause as aforesaid, the Commissioners shall, after hearing him, cancel the notice issued under sub-section (1) or confirm the same, subject to such modifications (if any) as they may think fit.

Huts.

244J. (1) Every person who intends to Application erect, re-erect or materially alter a hut shall to erect, send to the Commissioners an application for erect or materially alter a permission to execute the work.

(2) Every such application shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

1244 K. The erection, re-erection or material Work not to alteration of a hut shall not be commenced, unless and until the Commissioners—til permission unless and until the Commissioners-

(a) have granted written permission for the execution of the work on an

(Part) VI. Of Special Regul tions.—Secs. 244L-844-0.)

application sent to them under section 244 J_ror

- (b) where an appeal or reference has been made to the Engineer appointed under section 351 D, have received orders from the Engineer determining that permission to execute the work should be granted.
- ¹ **244 L.** Within fourteen days after the receipt of any application made under section 244 J for permission to erect, re-erect or materially alter a hut, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—
 - (a) grant such permission, subject, to such conditions or modifications (if any) as may be specified in the order, or
 - (b) refuse, on one or more of the grounds mentioned in section 244 O, to grant such permission.

1244 M. Whenever the Commissioners refuse to grant such permission as aforesaid, they shall state specifically the grounds for such refusal.

*244N. If, within the period prescribed by section 244L, the Commissioners have neither granted nor refused permission to erect, reerect or materially alter a hut, the Engineer appointed under section 351D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forth with, by written order, whether such permission should be granted or not.

1244-0. The only grounds on which permission to erect, re-crect or mater ally alter a hut may be refused are the following,

namely :—

 in the case of erection or re-erection, or of any material alteration of the kind indicated in clause (b) of section 238, that the site is, in the opinion of the Commissioners, or (where an

Permission to execute work when to be given or refused.

Record of reasons when permission refused.

Reference to appellate Engineer, if grant or refusal of permission i delayed.

Gyands on which permis sion to erect, re-creet or materially alter a hut may be refused.

¹ See foot-note 8 on page 798, ante.

(Part VI.-Of Special Regulations Secs. 244 P. 244 Q.)

appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, an unsafe site for a hut;

(2) that the work would, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, threaten the stability or security of some hillside or bank or some immovable property thereon;

(3) that the work would contravene some specified provision of this Act or some specified rule, by-law or order

made hereunder;

(4) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or

(5) that any information required under the said Schedule has not been duly furnished.

244P. If the erection, re-erection or Lapse of material alteration of any hut is not com-not acted menced within six months after the date on upon within which permission was granted to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this Act.

¹244Q. (1) If any site be specially prepared Notice. for erecting, re-erecting or materially altering building a hut in pursuance of any permission granted work, and inspections. under this Act, the owner of the hut shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.

(2) The Commissioners or the Municipal Engineer, if authorized by them in that behalf, may thereupon inspect the site, and, if it

appears to the Commissioners that the site is in such a condition as to render the hut unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immovable property thereon, they may,

(Part, VI. Of Special Regulations.—Secs. 242R, \$44S.)

by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order, grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

EXEMPTIONS.

Exemptions.

Demoission of

1244R. The following buildings shall be exempted from the operation of sections 240 to 244Q, except in so far as those sections relate to sites, that is to say—

(a) any building erected and used, or intended to be erected and used, exclusively for the purpose of a planthouse, summer-house (not being a dwelling-house), poultry-house or aviary, provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building; and

(b) any building of a temporary character erected or intended to be erected by, or with the sanction of, the Commissioners for use solely as a hospital for the reception and treatment of persons suffering from any infectious or contagious disease.

1'EMOLITION, ALTERATION AND STOPPING OF WORK.

¹2448. If the Commissioners are satisfied—

- (1) that any work referred to in section 201C, sub-section (1), or section 224B, sub-section (1), or the erection, re-erection or material alteration, of any building—
 - (a) has been commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) we thout waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or

¹ See foot-note ton page 798, a sta.

(Part VI. Of Special Regulations-Sec. 244 T.)

- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is being carried on or has been completed after such permission has been withdrawn, or
- (d) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or by-laws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or by-laws, or
- (2) that any alterations required by any notice issued under section 244H have not been duly made,

the Commissioners may apply to the Magistrate, and such Magistrate may make an order-

- (i) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner or altered by him to the satisfaction of the Commissioners, as the case may require, or
- (ii) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Commissioners at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard in defence.

1244T. (1) In any case in which any work Power to referred to in section 2448 has been unlawfully stop progress of work uncommenced or is being unlawfully carried on, lawfully the Commissioners may, by written notice, commenced or require the person carrying on the work to stop the same pending the decision of the Magistrate on an application made to him under that section.

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(Part VI.—Of Special Regulations.—Secs. 244U-244X.)

(2) If any work be carried on upon any premises in contravention of a notice issued under sub-section (1), any person directing or carrying on such work may, under the orders of the Commissioners, be removed from the premises by any police officer.

1244U. When any person is liable to be directed to demolish work and to pay a fine under this Act, both those directions may be given at the discretion of the Magistrate.

CONTROL OVER OCCUPATION OF BUILDINGS.

¹**244V.** (1) If it appears to the Commissioners that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe.

they may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy the building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.

(2) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masoury or framed building is defective,

they may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction.

1244W. If any person occupies or continues to occupy any building in contravention of any notice issued under sub-section (1) of section 244V, he may, under the orders of the Commissioners, be removed from the building by any police-officer.

1244X. (1) If, for any reason, any building intended for or used as a dwelling-place appears to the Commissioners to be unfit for human habitation, they may apply to the Magistrate to prohibit the further use of such building for such purpose; and the Magistrate may, by written order, make a prohibition as aforesaid

Demolition and fine cumulative.

Power to prohibit occupation of unsafe or insanitary building.

Power to remove persons occupying anale building

Prohibition of use of unfit building for human habitation.

(Part VI.-Of Special Regulations.-Sec. 244Y.).

or may pass such other order as he may deem

just and proper:

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building full opportunity of adducing evidence and of being heard in defence.

(2) When any such prohibition has been made, no owner or occupier of such building shall use the same or suffer it to be used for human habitation until the Commissioners certify in writing that the causes rendering it unfit for human habitation have been removed to their satisfaction, or the Magistrate, by written order, withdraws the prohibition afore-

1244Y. (1) If it appears to the Commis- Abatement of sioners that any dwelling-house, or any hut overcrowdin in dwellingwhich is used as a dwelling-place, or any room house or dwelling-place dwelling-place dwellingin any such house or hut, is so overcrowded as dwell place. to endanger the health of the inmates thereof, they may apply to the Magistrate to abate such overcrowding;

and the Magistrate may, by written order, require the owner of the building or room, within a reasonable time, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room,

or may pass such other order as he may deem

just and proper:

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building or room full opportunity of adducing evidence and of being heard in defence.

(2) The Commissioners may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant of a building or room.

(3) If the owner of any building or room referred to in sub-section (1) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the

owner of the building or room.

(Part VI.—Of Special Regulations.—Secs. 244Z, 245.)

(4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1).

ROOF-GUTTERS AND DOWN-PIPES OR PLATFORMS.

- 1244Z. (1) The Commissioners may, by written notice, require the owner or occupier of any building—
 - (a) to provide and maintain a sufficient number of suitable roof-gutters and down-pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in the notice, or
 - (b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.
- (2) The said gutters must be of such dimensions, and have such slope, and the said pipes must be of such dimensions, and the bends in such pipes must be made at such angles, as may be prescribed by rules 2 made by the Commissioners at a meeting.

OF SANITARY MEASURES WITH REGARD TO BLOCKS OF HUTS.

Power of Commissioners as to inspection of hut.

Provision, atc..

of roofgutters and down pipes

platforms.

245. Whenever the Commissioners at a meeting are satisfied, from inspection, or by report of competent persons, that any existing block of huts within the municipality is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants of the neighbourhood, they may cause the locality to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said block of huts; and shall specify, if necessary, in the said report, the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

⁷ See foot-note 2 on page 792, ante.
2 For rules made under s. 244Z (2), see the Bengal Local Staintory Rules and Orders, 1913,
1, Pa VI.

(Part VI.-Of Special Regulations.-Secs. 246-248A.)

246. On receipt of the said report, the Commissioners at a On receipt of meeting may require the owners or occupiers of the huts, or, commission at the option of the Commissioners, the owner of the land on they cause which such huts are built, to carry out and execute, within a reasonable time to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid report or any portion thereof respectively, and, if such owner, owners or occupiers shall fail to comply with such requisition, the Commissioners themselves may execute all or any of such works.

The Commissioners at a meeting may order that any Expenses in 247. expenses payable in respect of any work done by them in be recoved by instalconsequence of the failure of the owners or occupiers to execute ments or such work when required to do so under the last preceding came of section shall be recovered by instalments from the person poverty. liable to pay the same; or, if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the same, or any portion thereof, to be paid out of the municipal fund.

248. If any of the said huts be pulled down, the Commis- Sale of huts. sioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, or, if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners, until the person interested therein shall obtain the order of a Civil Court of competent jurisdiction for the payment of the same.

1 REVETTING, TURFING AND SLOPING.

1248A. If it appears to the Commissioners Power that the condition or the situation of any land, requi being private property, is such as to threaten turing or the stability or security of any hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of the land to do all or any of the following things, namely :-

- (a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land;
- (b) to re-construct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land;
- (c) to turf the land or any portion thereof;
- (d) to slope the land or any portion thereof.

(Part VI.-Of Special Regulations.-Secs. 248B-248E.)

Execution of work where owners of adjacent property would be benefited.

Power to execute works in combin-

Power to execute works where public road, drain, powerment or retaining wall is affected.

Rules as to revetting, turfing and slowing. ¹243B. If any owner to whom a notice is issued under section 248A represents to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly and substantially benefit the owners of any adjacent buildings or land,

the Commissioners may, after hearing all the owners concerned, themselves cause the said work to be executed:

and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.

1248C. If it appears to the Commissioners that buildings or lands belonging to two or more owners can be protected by the execution of works of the nature referred to in section 248A, more economically or advantageously in combination than separately,

the Commissioners may themselves cause such works or any of them to be executed, maintained and kept in repair;

and the expenses thereby incurred shall be recovered from the said owners, in such proportions as the Commissioners may direct.

¹ **248D.** Notwithstanding anything contained in section 248A, the Commissioners may at any time themselves cause any revetment, retaining wall or toe-wall to be constructed, re-constructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall;

and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land in such proportions as the Commissioners may direct.

¹ 248E. Whenever any revetment, retaining-wall or toe-wall is to be constructed, reconstructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped in pursuance of section 201D, section 210B, section 210C, section 248A, section 248B, section 248C, or section 248D, the work shall be executed in accordance with the rules contained in Schedule D, so far as they are applicable to the particular case.

¹ See foot-note 1 on page 811, ants.

of 1884,]

(Part VI -Of Special Regulations.-Secs. 249-251.)

OF THE REGULATION OF THE SALE OF FOOD, DRINK AND DRUGS.1

249. Every owner, or occupier, or farmer, of any place for Markets the sale of meat, poultry, fish or vegetables, or of any slaughterhouse, within the limits of a municipality, shall cause such to be predrains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such place or slaughter-house in a clean and wholesome state.

250. Any Magistrate, on the application of the Commis- Sale of ? sioners or any of their officers setting forth that there is just good or drink. cause to believe that any article which has been rendered or has become noxious or unfit for use as food or drink for man, is in the possession of any person for the purpose of being sold or offered or exposed for sale, within the limits of a municipality as food or drink for man, may grant a warrant to enter upon the premises of such person, and to search for and seize such article.

And, if it appear to the said Magistrate that the same is noxious or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

²251. No person shall sell to the prejudice of the purchaser Prohibition any article of food which is not of the nature, substance or articles of quality of the article demanded by such purchaser under a penalty not exceeding one hundred rupees:

Provided that an offence shall not be deemed to be com-

mitted under this section in the following cases, that is to

sav:-

(1) where any matter or ingredient not injurious to health has been added to the food, because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food, or conceal the inferior quality thereof;

(2) where the food is unavoidably mixed with some extraneous matter in the process of collection or

preparation.

The term "food" shall include every article used for food or drink by man other than drugs or water.

For further provisions as to alaughter-houses and meat and fish markets, see the Bengal Municipal (Blaughter-houses and Meat Markets) Act, 1865 (Ben, Act 7 of 1865), anis, p. 43.

This section was substituted for the original section 261 by the Bengal Municipal (Amend ment) Act, 1886 (Ben. Act 3 of 1886), s. 2, post, p. 979.

quality.

IND DERVAN A

In any prosecution under this section it shall be no defence to allege that the purchaser, having bought only for analysis. was not prejudiced by the sale.

¹251A. No proceedings shall be instituted under the last preceding section without the order or consent of the Commissioners.

¹251B. The Commissioners, or any person authorized by stoners to enter them in that behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for food, or as a slaughterhouse, and may examine any such articles which may be therein, and, if upon examination such articles, or any of them, appear to be unfit for food, may seize the same.

¹251C. Upon the seizure of any article of food under the last preceding section, the same may, if the owner or the person in whose prossession the same is found consents, be forthwith destroyed or so disposed of as to prevent it being used as food, but, if the owner or the person in whose possession the same is found do not consent, then, if it appear to a Magistrate upon sufficient evidence that the same is unfit for food, he shall order the same to be destroyed or so disposed of as to prevent it being used as food, and may impose a penalty not exceeding one hundred rupees upon the owner, or person in whose possession the same was found, such person not being merely a carrier or bailee thereof.

251D. If the Commissioners, or any person authorized by them in that behalf, shall apply to purchase any article of food exposed to sale, and shall tender the price for quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

252. No shop or place shall be kept for the retail sale of drugs recognized by the British Pharmacopæia, not being also articles of ordinary domestic consumption, unless the same shall have been registered in the office of the Commissioners. Any keeper of such shop or place failing to register the same within two months after this section shall come into force, or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one hundred rupees. The Commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises.

No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be y certified as a fit person to be entrusted with such duties.

No procee ings to be had without leave of the Commissioners. Power of Commisand in apect markets, shops, etc., and to seize unwholesome articles Power to destroy un-wholesome articles.

ing to sell any article to Commissioners liable to penalty.

Registry shops for sale of

European

Certificate

otions 251A to 251D were inserted by the Bengal Municipal (Amendment) Act, 1886 (Bin. of 1867), c. 5, post, p. 979.

(Part VI.—Of Special Regulations.—Secs. 253, 254.)

ander rules. made for that purpose by the Local Govern-

Provided that the provisions contained in the second clause of this section shall not come into operation until after the expiration of a period of six months from the publication of a actification? to that effect in the Calcutta Gazette by the Local Government.

Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines, whether recognized by the British Pharmacopæia or not, when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopæia are dispensed apon prescription.

253. The Commissioners, or any person authorized by them Inspection drugs. in that behalf, may at all reasonable times enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated, or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, may remove the same on giving a receipt therefor, specifying the nature and quantity of the drug removed, and its approximate value; and if it appear to a Magistrate that the said drug, removed as aforesaid, is adulterated or has become inert, unwholesome or deteriorated, as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit.

If it shall appear to the said Magistrate that the drug so Compensate removed is not adulterated or has not become inert, unwholesome or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Magistrate to award him such compensation as he may think proper, not exceeding the actual loss which has been sustained.

If the drug removed as aforesaid is not brought before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug.

OF BURIAL AND BURNING GROUNDS.

254. Within three months from the date on which this and Registration the six and next succeeding sections may come into force as baria and provided in section 222, every place which is used as a burial burnle or burning ground for corpses shall be registered as such by

¹ For rules made under section 262 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Tt. VI.

² For a list of orders made under this proviso for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI, opposite s. 221 of Ben. Act 3 of the Bengal Rules Rules

* i.e., rs. 255, 256, 257, 258, 259 and 260.

(Part VI.—Of Special Regulations.—Secs. 255-257.)

the owner thereof in the office of the Commissioners, but no fee shall be charged for such registry.

255. No burial or burning ground, whether public or private, shall be made or formed, or, having lapsed into disuse, shall be again used as such, otherwise than with the permission of the Commissioners, or under the authority of the Local

No new or disnaed burial or burning place hence-forth to be need without leave of or of Com-missioners. Commissioners may order certain burial or burning grounds to be

256. If it shall appear to the Commissioners at a meeting that any public or private burial or burning ground is dangerous to health or offensive to the tax-payers, or to the inhabitants of the neighbourhood, and also that a suitable place for interment or burning, as the case may be, exist within a convenient distance, and is open and available to the inhabitants of the municipality, the Commissioners shall give public notice of their intention to close such burial or burning ground, and shall consider any objections which may be preferred within fifteen days of the publication of such notice; after considering such objections, they may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground.

If any building is attached to, and used in connection with a burning ground closed under this section, the Commissioners shall, if the owner of such building make an application to them in that behalf, take over the same on payment of a fair

price therefor.

Government 1.

Private burial places may be excepted.

256A. When notice is given of the intention to close any burial-ground under the last preceding section, private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the Commissioners at a meeting may impose in this behalf:

Provided that the limits of such burial-places are defined. and that they shall only be used for the burial of members of

the family of the owners thereof.

256B. Any person aggrieved by any order made by the Commissioners under the powers conferred upon them by the two last preceding sections may appeal to the Magistrate, whose decision shall be final.

Prohibition to bury or burn in unregisund.

n under

257. After the expiration of the three months mentioned in section 254, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the Commissioners as an open burial or burning ground; but the Commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

¹ As to the delegation to Commissioners of Divisions of the Local Government's power, see 3.28A, eace, p. 724.

⁸ Sections 254 A and 254B were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act, of 1894), c. 73, in Vel. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 258-261.)

258. After the expiration of not less than twenty-four Commissioners hours from the death of any person, the Commissioners may cause the corpse of such person to be burnt or buried, and the burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due ing to the from the estate of such person. In every such case the corpse religious shall be disposed of, so far as may be possible, in a manner deceased. consistent with the religious tenets of the deceased.

259. The Commissioners at a meeting may, from time to Commissioners time, out of the municipal fund, with the sanction of the Local places to be Government to provide fitting places to be used as burial or used as burial burning grounds, and may impose a fee not exceeding two grounds. rupees in respect of every corpse buried or burnt within such burial or burning grounds.

260. The Commissioners at a meeting may, from time to Commissioner time, out of the municipal fund, provide for the burial and for burial of burning of paupers free of charge within the limits of the panpers free

municipality.

² 260A. (1) The Commissioners may, from time to time. grant licenses to persons applying for the same, for the sale at burning grounds of fuel and other articles used for the cremation of dead bodies, and in case any such license shall be granted shall, at a meeting, prescribe a scale of rates for the sale of such articles; and any person not so licensed, who shall, within three hundred yards of any such burning ground, sell or offer for sale any such fuel or other articles, shall be liable to a fine not exceeding lifty rupees.

(2) The Commissioners may, on good and sufficient cause. revoke or withdraw any such license they may think fit, and any person to whom any such license is granted, who shall charge for the sale of any such article any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled. and shall be liable also to a fine not exceeding ten rupees.

OF CERTAIN OFFENSIVE AND DANGEROUS TRADES OR OCCUPATIONS.

261. Within such local limits as may be fixed by the Commissioners at a meeting, no place shall be used without a license dangerous from the Commissioners, which shall be renewable annually, for any of the following purposes, namely:-

melting tallow; , boiling offal or blood; skinning or disembowelling animals; as a soap-house, oil-boiling house, dyeing-house: buried accord-

within limit

¹ As to the delegation to Commissioners of Divisions of the Local Government's power, see 3.99A, safe, p. 794.

8 Section 390A was inserted by the Besgal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a.78, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 262, 262A.)

as a tannery, slaughter-house, or kiln for making bricks, pottery, tiles or lime;

as a manufactory or place of business from which offensive or unwholesome smells may arise;

as a yard or depôt for trade in hay, straw, wood, thatchingjute or other dangerously inflammable. grass. material;

as a store-house for kerosine, petroleum, naphtha or any inflammable oil or spirit;

as a shop for the sale of meat;

1 [as a place for the storage of rags or bones, or both;] or as a lodging-house or a sarai.

Such license shall not be withheld unless the Commissioners have reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous persons residing in or frequenting the immediate neighbourhood.

[The Commissioners at a meeting may, in accordance with a scale of fees to be approved by the Commissioner of the Division, levy a fee in respect of any such license and the renewal thereof, and may impose such conditions upon the grant of any such license as they may think necessary.]

262. If it be shown to the satisfaction of the Commissioners at a meeting that any place licensed under section 261 is a nuisance to the neighbourhood, they may, notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice:

*[Provided that in this case the Commissioners shall refund so much of the fee levied under the last preceding section as may be proportionate to the unexpired portion of the year for which the license was granted.]

'262A. Within such local limits as may be fixed by the Commissioners at a meeting, no place shall be used as a kiln for making bricks, pottery, tiles or lime for private purposes.

may, in certain cases, order the use of slaugh-ter-houses and the carrying on of dangeror danger ous and offensive tretrades to be

Commissioners may prohibit private kilns.

¹ These words in square brackets were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 74 (I), in Vol. III of this Code.

² This paragraph was substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 74 (2), in Vol. III of this Code. The original paragraph ran as follows:—

as follows:—

"The Commissioners may levy a fee in respect of such license and the renewal thereof, and may impose such conditions upon the licensee as they may think necessary."

Bection 261 is repealed, in so far as it entitles the Commissioners to levy fees in respect of premises licensed as depots for hay, straw, wood, rags, jute or other dangerouly inflammable material which are licensed and used as warehouses under the Licensed Wavehouse and Fire-Brigade Act, 1898 (Ben, Act 1 of 1898)—ses the latter Act, a. 46, in Vol. III of this Code.

For a list of orders made by Commissioners of Divisions under this paragraph of section 262 for Bengal as constituted on the Slat March, 1912, ses the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

This proviso was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), 875, in Vol. III of this Code.

of 4884.

(Part VI.-Of Special Regulations.-Secs. 263-267.)

263. Within such limits as the Commissioners at a Milkman meeting may determine, no milkman, cartman, livery stablekeeper or keeper of hackney carriages, shall keep horses, or cattle
ponies or cattle

* * 1 for the purposes of trade or license,
business, except in a place licensed by the Commissioners.

The Commissioners may license also the commissioners.

The Commissioners may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year.

It shall be in the discretion of the Commissioners at a meeting to grant any such license subject to such conditions as

they may think fit.

264. The Commissioners may provide public stables for the accommodation of horses and cattle, and may direct that, provide within such limits as they shall at a meeting determine, no public stables. person shall keep horses or cattle exceeding ten in number, for the purpose of trade, or business, except in such public stables, or in places licensed under the preceding section.

The Commissioners may charge such reasonable fees as they

shall think fit for the use of such public stables.

265. Within such limits as the Commissioners may direct, conditions for keeping. no person shall keep any pig-sty adjoining or near a road pig-sty. unless it is shut out therefrom by a sufficient wall or fence, and in no place within such limits shall more than ten pigs or more than twenty sheep or goats be kept without the written permisssion of the Commissioners.

The Commissioners may charge an annual fee not exceeding two rupees for such permission, and may impose such conditions in respect of such permission as they may think necessary.

PENALTIES.

266. Any person constructing a privy within a municipa-failing to lity, and failing to have it shut out from view, as in section 225 shut out from view and view as in section 225 shut out from vi required, shall be liable to a fine not exceeding twenty rupees.

² 267. Whoever erects a hut, or any range or block of huts or sheds, or adds to any hut or shed, or to any range or block already existing, contrary to the provisions of section 243, and whoever fails to remove such hut, block of huts or shed when required by the Commissioners to do so, shall be

without notice.

¹ The words "exceeding ten in number", in s. 268, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben Act 4 of 1894), s. 77, and are omitted.

*Bection 267 applies to all municipalities in Bengal except Darjeeling, having been repealed in the Darieeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28.

Bon: Act # :

(Part VI.—Of Special Regulations.—Secs. 268-270.)

liable to a fine not exceeding twenty rupees for every such offence, and to a further fine, not exceeding five rupees, for each day during which the offence is continued after he has been convicted of such offence.

Disobeving requisition under section

268. If any owner, occupier or farmer of any place for the sale of meat, poultry, fish or vegetables, or of any slaughterhouse, within the limits of a municipality, after notice in writing given to him by the Commissioners that such place or slaughter-house is defective in any of the particulars specified in section 249, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

Untting up road for passage of water, etc.

269. If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the Commissioners, dig or cut up any public road or thoroughfare, he shall be liable to a fine not exceeding twenty-five rupees, and shall in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road or thoroughfare.

Throwing rubbish into

270. Whoever, within a municipality,—

(1) without the permission of the Commissioners, throws or puts, or permits his servants to throw or put, any sewage or offensive matter on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, sewage or offensive matter into any sewer or drain belonging to the Commissioners. or into any drain communicating therewith; or

Allowing water of any Wer, etc. to run on any (2) causes or allows the water of any sink, sewer or cesspool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any road, or causes or allows any offensive matter to run, drain or be thrown into a surface-drain near any road; or

(3) constructs a latrine, urinal, cesspool, house-drain or

privy in contravention of the provisions of sections 230 and 231; or

Constructing

1(4) without the written permission of the Commissioners, digs or makes, or causes

Making excavation

¹ Clauses (4) and (5) of section 270 apply to all municipalities in Bengal except Darjeeling, ing been reposted in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. ring been repealed t 1 of 1900), s. 28.

of 1884.

(Part VI.-Of Special Regulations.-Secs. 271, 272.)

or suffers to be dug or made, any excavation, cesspool, tank or pit, in contravention of the provisions of section 232, 1 [or

daking roof r wall of rass. etc.

2(5) makes or repairs a roof or wall with grass. leaves, mats or other inflammable material in contravention of the provisions of section 236:]

shall be liable, for every such offence to a fine not exceeding twenty-five rupees.

Disobeving rquisition inder ection 121, 225, 227. 280, 281 or 238.

³ **271.** Whoever, a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of section 224, 225. 227, 230, 231 or 238, shall be liable, for every such offence, to a fine not exceeding twentyfive rupees and to a further fine, not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

⁴ **271.** Whoever, Within Disobeying a municipality, fails to comply requisition under section with a requisition issued by 224, 226, 226, the Commissioners under the provisions of section \$ 224, 225 * * * 230, 231 * or * * * shall be liable, for every such offence to a fine not exceeding twentyfive rupees, and to a further tine, not exceeding five rupees, for every day during which he shall continue to make such default after service on him of such requisition.

272. Whoever, within a municipality,-

(1) without the written consent of the Commissioners Altering, etc. previously obtained, makes or causes to be made, or to public to public

The word "or "in clause (4), and clause (5), of s. 270 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 78, in Vol. III of this Code.

*Clauses (4) and (5) of section 270 apply to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23.

*Section 271 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the figures printed in Italies.

*Section 271 applies in this form to the Darjeeling Municipality.

*The figures "22" and "227", in section 271, were inserted, and the figures and word "281 or 288" were substituted for the word and figures "or 281" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, in Vol. III of this Code.

*The figures "22" in section 271, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1800), s. 23, are omitted here.

*This reference to s. 281 was substituted for the original reference by abe Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipality by the Darjeeling Municipal (Amendment) Act, 189

(Part VI.-Of Special Regulations.-Sec. 272A.)

alters or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners by this Act; or

Making contrary to the orders of the Commis-

- 1 (2) constructs any branchdrain, privy or cesspool contrary to directions and regulations of the Commissioners contrary to the provisions of this Act, or, without the consent of the Commissioners, structs, re-builds or unstops any drain, privy or cesspool which has been has been ordered by them to be demolished or stopped up or not to be made;
- 2(2) constructs any * * * Making privy or cesspool cesses contrary to the contrary directions and reguations of the Contrary to the orders lations of the Commissioners or contrary the provisions of this Act, or without the consent of the Commissioners, structs, re-builds or unstops any privy or cesspool which has been ordered by them to be demolished or stopped up or not to be made,

shall be liable, for every such offence, to a fine not exceeding fifty rupees.

'272A. Whoever-

Fine for

- (a) contravenes any provision of any of the offences. clauses of this Act mentioned in the first column of the following table, or
- (b) fails to comply with any requisition lawfully made upon him or any direction lawfully given to him under any of the said clauses,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.-The entries in the second column of the following table, headed "subject," are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

¹ Clause (2) of section 272 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the clause as applying to municipalities in Darjeeling and elsewhere is in the words primed in talics.

8 Clause (2) of section 272 applies in this form to the Darjeeling Municipality.

8 Clause (2) of section 272 applies in this form to the Darjeeling Municipality.

9 The Darjeeling Sunicipality by 188 Darjeeling Municipal Act, 1900 (78m. Act 1 of 1900), s. 25, the words "branch rate", and "drain," respectively, are omitted here.

8 Rections 272 A to 272 E were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (88m. Act 1 of 1909), s. 19, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Sec. 272A.)

Clauses.		Subject.	Fine which may be imposed.
		2	
Section	201 D	Requisition to reconstruct, etc., a private road or bridge.	Five hundred rupees.
••	201 E	Requisition to provide and maintain, or to enlarge, water- way.	Two hundred and fifty rupees.
,	201 F	Construction, etc., of private road or bridge.	Two hundred and fifty rupees.
*1	201 G	Requisition to close a private road.	Two hundred and affty rupees.
**	207 A, clause (b)	Requisition to remove debris falling upon or into a private road or drain.	Fifty rupees.
**	210 B	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immovable property.	Five hundred rupees.
,,	210 C .	. Requisition to take down a building, etc., where hillside or bank threatens the safety of buildings.	Five hundred rupees.
*1	224 C .	Requisition to re-construct, etc., a private drain.	Two hundred and fifty rupees.
••	227 .	. Requisition to provide a drain	Two hundred and fifty rupees.
,,	229 А.	. Construction, etc., of private drain.	Two hundred and fifty rupees.
'n	236, sul section (Twenty fi v e rupees.
11	236, sul section (Twenty-fi v e
11	244 E. sı section (

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(Part VI.-Of Special Regulations.-Sec. 272B.)

Clauses.		Subject.	Fine which may be imposed.
**		Sending written notice to Commissioners before commencing building work.	Twenty- fiv e rupees.
•1		Requisition to stop work pending decision of Magistrate.	Five hundred rupees.
"	244 V, sub- section (1)	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building and twenty-five rupees in the case of a hut.
٠,		Prohibition of occupation of insanitary building.	Fifty rupees.
,,	244 X, sub- section (2)	Using building declared unfit for human habitation.	Fifty rupees.
"	244 Y. sub- section (1)		Fifty rupees.
	244 Y, sub- section (4)	Requisition to vacate over- crowded building or coom.	Ten rupees.
••	244 Z, sub- section (1)	Requisition to provide, repair, etc., roof-gutters and down-pipes or masonry platforms.	One hundred rupces.
.,	248 A	Requisition to construct revet- ment, etc.	Five hundred rupees.
"	248 E	Revetment, turting and sloping.	Two hundred and fifty rupees.
-	. •		

¹ 272B. Whoever, after having been convicted of failing to comply with any requisition

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(Part VI.-Of Special Regulations - Sec. 278B.)

lawfully made upon him or any direction lawfully given to him under any of the clauses of this Act mentioned in the first column of the following table,

continues to neglect to comply with the said

requisition or direction,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject." are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

Clauses.	Subject.	Daily fine which may be imposed.
1	2	8
Section 201 D	Requisition to re-construct, etc., a private road or bridge.	One hundred rupees.
" 201 F	Requisition to provide and maintain, or to cularge, water- way.	Fifty rupees.
., 201 G	Requisition to close a private road.	Fifty rupees.
, 207 Λ, clause (b).	Requisition to remove debrise falling upon or into a private road or drain.	Ten rupces.
" 210 В	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immovable property.	One hundred rupees.
" 210 C	Requisition to take down build- ing. etc., where hillside or bank threatens the safety of buildings.	One hundred rupees.
" 224 С	Requisition to re-construct, etc., a private drain.	Fifty rupees.
" 227 	Requisition to provide a drain	Fifty rupees.

(Part V1.-Of Special Regulations.-Sec. 272C.)

Clauses.	Subject.	Daily fine which may be imposed.
1	2	3
Section 244 V, subsection (I)	Prohibition of occupation unsafe building.	of Fifty rupess in the case of a masonry or frame duilding and five rupess in the case of a hut.
,, 244 V, sub- section (2)		of Ten rupees.

Fine for unlawfully commencing, carrying on or completing work. ¹ **272C.** If any work referred to in section 201C, sub-section (1), or section 224B, sub-section (1), or the erection, re-erection or material alteration of any building—

- (a) is commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- or orders was or were based, or (c) is carried on or completed after such permission has been withdrawn, or
- (d) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or bylaws, or

(Part VI.-Of Special Regulations.-Secs. 272D, 272E.)

if any alterations required by any notice issued under section 244H be not duly made.

the owner shall be liable to fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to five hundred rupees, and in the case of a hut, to fifty rupees, and

to further fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after conviction during which the offence is continued.

1 272D. If any person to whom a direction to demolish or alter work is given under clause direction for (i) of section 2448 fails to obey the same, he demolition or alteration shall be liable

to fine which may extend, in the case of a unlawfully commenced road, bridge, drain or masonry or framed build- carried on or ing, to five hundred rupees, and in the case of completed. a hut, to fifty rupees, and

to further fine which may extend, in the case of a read, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after conviction during which he so fails.

1272E. When a building has been erected re-erected or materially altered under this Act, without any statement having been made, offensive trade without preunder rule 23 or rule 28 of Schedule C, that it vious declarwas intended to use the building or any part ation. thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, then any person using the building or any part thereof for any of those purposes shall be liable,-

- (a) in the case of a masonry or framed building, to fine which may extend to two hundred rupees, and to further fine which may extend to twenty rupees for each day after conviction during which he continues such use,
- (b) in the case of a hut, to fine which may extend to twenty rupees, and to

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(Part VI.-Of Special Regulations .- Sec. 273.)

further fine which may extend to five rupees for each day after conviction during which he continues such

273. Whoever, in municipality,

> 1 (1) begins to build or to take down, or alter or repair any house contrary to the provisions of section 235, \$ 238 or 241,

> > or lets a house for occupation contrary to the provisions of section 242,

> > or, without writpermission, ten erects or sets up any hoard, scaffolding or fence whatsoever,

or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition,

or who does not, while such hoard or fence is standing, keep the same suffilighted ciently during the night,

or who does not remove the same within eight days, when directed by the Commissioners; or

in . a . Offence unc 273. Whoever, municipality,

1(1) begins to build or to take down, or alter or repair, any house contrary to the provisions of section 235.

> or, without written permission erects or sets up any hoard, scaffolding or fence whatsoever,

> or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition,

> or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night,

or who does not remove the same within eight days. when directed by the Commissioners; or

¹ Clause (I) of rection ?I8 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the clause, as applying to municipalities in Darjeeling and elsewhere lie is this matter printed in italies.

② Clause (I) of section ?I8 applies in this form to the Darjeeling Municipality.

③ The figures "288," in this clause (I) of s. 278, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80, in Vol. III of this Code.

④ The figures "288" were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80, in Vol. III of this Code.

⑤ The figures "288" were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80, in Vol. III of this code.

⑤ The figures "288" were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80, in Vol. III of this code.

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(Part VI.-Of Special Regulations.-Secs. 274-277.)

(2) without a license uses any place for any of the purposes specified in section 261 or section 263; or 3624 of [uses any place as a kiln in contravention of the provisions of section 262A; or]

(3) being a holder of a license under section 261 or section Offence 263, breaks any condition of such license; or

(4) after the issue of an order under section 264, keeps or order under horses or cattle exceeding ten in number in contravention of such order; or

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(5) keeps any pig-sty, pigs, sheep or goats contrary to the offence under section 366. provisions of section 265,

thall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees, for every day during which the offence is continued after he

has been convicted of such offence.

274. Whoever, within a municipality, after the expiration of the period mentioned in section 257, knowingly buries burning corpse in or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning ground, shall be liable to a fine not exceeding one hundred rupees.

275. Whoever, within a municipality, uses any such offence under place as is mentioned in section 252, without the same being registered, shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

276. Whoever, within a municipality, not being the Uncertificated holder of such certificate as is mentioned in the second clause dispensing of section 252, shall compound, mix, prepare or sell any drugs drags. in any registered shop or place, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier or keeper of any such shop or place, who shall employ any such uncertified person to perform any one or more of such duties, shall on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license:

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification? to that effect in the Calcutta Gazette by the Local Government.

277. Whoever, within a municipality, after the expiration of the time specified in a notice issued by the Commissioners section 202. under the provisions of section 262, uses, or permits to be used,

¹ The words and figures in square brackets in clause (2) of s. 273 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben Act 4 of 1894), s. 80, in Vol. III of this Code.

For a list of notifications issued under this proviso for Bengal as constituted on the 31st March, 1912, set the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI, opposite s. 231 of Ben. Act 3 of 1884.

(Part VI.-Of Special Regulations.- Part VII.-Of " Water-supply.—Secs. 278, 279.)

the place specified in such notice in such a manner as to be a nuisance to the neighbourhood, shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding forty rupees for each day during which the offence is continued after he has been convicted of such offence.

Buspension or revocation of license, etc.

278. Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the by-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license.

And the Commissioners, upon the conviction of any person for a second or other subsequent like offence, may cancel ins license.

PART VII.

OF A WATER-SUPPLY.

Imposition of

¹279. (1) In any municipality to which the provisions of this Part shall be extended in the manner prescribed by section 222, it shall be lawful for the Commissioners at a meeting to impose a water-rate not exceeding seven and-a-half per centum on the annual value of holdings when the houses and lands are situtated in any road supplied with water, and not exceeding six per centum when the house and lands are situated in any road not so supplied.

² [(1a) With the sanction of the Local Government, the amount of the water-rate imposed under this section may vary with the distance of houses or lands from the nearest stand-pipe or other source of water-supply, and amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.

(f) In fixing the amount '[or amounts] of the rate, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for

A This section was substituted for the original section 279 by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 4 of 1894), s. 81, in Vol. 11 of this Code,

2 As to the imposition of a water-rate, see also s. 86, sats, p. 745.

3 San-section (12) was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act

5 San-section (12), in Vol. III of this Code.

4 For an other made under section 279 (1a) for Bengal as constituted on the Sirt March, 1912,

5 The words "er smoonts" in s. 279 (2), were inserted by the Bengal Municipal (Amendment),

4 Cha words "er smoonts" in s. 279 (2), were inserted by the Bengal Municipal (Amendment),

4.66 (Ben. Act 2 of 1896), s. 18 (5), in Vol. III of this Code.



(Part VII.—Of a Water-supply.—Secs. 280-288.)

water supplied from the works under special contract or otherwise, shall not exceed the amount required for carrying out the purposes of this Part.

(3) The water-rate shall be paid by the occupiers of the

holdings by quarterly instalments in advance:

Provided that such water-rate shall not be levied upon-

(a) any house or land, no part of which is within a radius to be fixed by the Local Government for each municipality from the nearest stand-pipe or other supply of water available to the public; or

(b) any land used exclusively for purposes of agriculture;

(c) any holding consisting only of tanks:

Provided also that nothing in this section shall prevent the Commissioners from making any special arrangement consistent with this Act with persons residing beyond the radius

fixed by the Local Government.

280. The annual value of holdings shall be the value Valuation, determined by the Commissioners for the imposition of the rate and collection on holdings under the provisions of Part IV of this Act, or, if of water rate no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive), and 112 to 130 (both inclusive), shall, mutatis mutandis, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the water-rate.

applicable to the assessment and confection of the water-rate shall occupier payers. Whenever the person by whom the water-rate shall have been ing water-rate made in respect of deductions overed, is not the owner of the house or land in respect of deductions overed, is not the owner of the house or land in respect of deductions overed. have been paid, or from whom the said rate shall have been recovered, is not the owner of the house or land in respect of which the water-rate shall have been assessed, such person may fourth from recover from the owner one-fourth of the water-rate so paid or owner. recovered, and may deduct the same from the rent payable by him to such owner.

282. Whenever any house or land has been unoccupied When house during an entire quarter, the owner of the said house or land is uncompleted shall pay to the Commissioners one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

The sum payable by the owner under this section shall be deemed to be due on the first day of the quarter following that in respect of which the said sum is payable.

283. Whenever any quarterly instalment of the water-rate Refund of shall have been paid in respect of any house or land, and such when bous house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person

¹ For a list of orders made under section 279 (3) (a) for Bengal as constituted on the Sist March...

1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The matter in square brackets was inserted by the Bengal Municipal (Amendment) Act, 1896
(Ben. Act 2 of 1896), s. 14, in Vol. III of this Code.

(Part VII.-Of a Water-supply:-Secs. 284-388.)

who shall have paid such water-rate shall be entitled to be repaid by the Commissioners three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to the entire quarter:

Provided that notice shall have been given in writing to the Commissioners of such house or land being unoccupied, and that the application for refund be made within six months next after the date on which the house or land ceased to be occupied.

The date on which the said notice is delivered at the office of the Commissioners shall, for the purposes of this section, be deemed to be the date on which the house or land ceased to be occupied.

284. Whenever any house or land which shall have been unoccupied shall begin to be occupied during any quarter, there shall be forthwith payable by the occupier in respect of such house or land a sum calculated at one-fourth of the rate that would have been payable if the house or land had been occupied during the entire quarter for the period during which the house or land was not occupied, and the full rate for the residue of the quarter.

And such occupier shall be entitled to deduct from the rent. or otherwise recover from the owner, one-fourth of the waterrate that would have been payable if the house or land had been occupied during the entire quarter.

285. Whenever any person holding any house or land from the owner thereof has sub-let the same in severalty to two or more persons, the person holding from the owner shall, for the purposes of this Part, be deemed to be the occupier of

such house or land.

286. The provisions of sections 312, 313 and 314 shall be

applicable to this Part:

Provided that the owner shall not be entitled to recover from any occupying tenant more than three-fourths of the water-rate that would but for this proviso be recoverable by him under the said sections.

287. In any municipality to which the provisions of this Part shall be extended, the Commissioners shall provide a supply of water within the limits of the municipality; and for this purpose it shall be lawful for them to cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public streets; and they may also erect in all such streets sufficient and convenient stand-pipes or pumps

for the use of the inhabitants of the municipality for domestic purposes.

A supply of water for domestic purposes shall not

include a supply of water for animals or for washing carriages, where such animals or carriages are kept for sale or hire, or a supply for any trade, manufacture or business, or for watering

(Part VII.—Of a Water-supply.—Secs. 289-292.)

gardens or roads, or for any oramental or mechanical

289. The Commissioners at a meeting shall determine p what pressure of water shall be maintained in their service- water must be kept. pipes and mains, and during what hours such pressure shall be continued; and any rule made under this section shall be published in such manner as the Commissioners may direct. and shall not be altered except with the sanction of the Com-

missioners at a meeting.

1290. Whenever the Commissioners deem it practicable and tion-pipes. consistent with the maintenance of an efficient water-supply, they may, at a meeting and subject to such rule3 and conditions as the Local Government may make and impose, allow the owners and occupiers paying the water-rate hereinbefore mentioned to lay down communication-pipes from the servicepipes of the Commissioners, for the purpose of leading water to their premises for domestic purposes.

291. The communication-pipes and all fittings thereon lead- Communication ing water from the service-pipes of the Commissioners into any house or land, and the pipes, works and fittings inside the faction of house or land, must in all cases be executed subject to the Commissioners.

inspection and satisfaction of the Commissioners.

Such communication-pipes, works and fittings may be made by the servants and workmen of the Commissioners upon such terms as may be agreed upon between the Commissioners and the person requiring the supply, or subject to such charges as may be fixed by the Commissioners; and the Commissioners may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

And such charges and expenses shall be recoverable in the

same manner as the water-rate.

292. Any officer authorized in that behalf by the Commis- Power to enter premises. sioners may, between the hours of seven in the forencon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain whether there be any waste or misuse of such

And, f such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the Commissioners may forthwith cut off the supply of water from such house

Provided that nothing hereinbefore contained shall authoror land: ize an entry into any room appropriated for the zanana or residence of women which, by the custom of the country, is

¹ This section was substituted for the original section 290 by the Bengel Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 82, in Vol. III of this Code.

² For a list of rules made under section 290 for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VII.-Of a Wuter-supply.-Secs. 293-297.)

considered private, unless a notice in writing of not less than four hours be given.

When pipes are out of repair, Commissioners may turn off water. 293. In the event of any pipes, works or fittings connected with the supply of water to any house or land being at any t me found, on examination by any officer of the Commissioners authorized in that behalf, to be out of repair to such an extent as to cause waste of water, the Commissioners may cause the water to be turned off from such house or land, after giving notice in writing of not less than twenty-four hours, and may recover from the occupier of such house or land the expense incurred for turning off the water.

Supply for

294. The Commissioners may supply water • • • ¹ for purposes other than domestic purposes, and may, subject to such charges and rates as may have been fixed by the Commissioners at a meeting, lay down, or allow to be laid down, the necessary pipes and works of such dimensions and character as may be approved by them.

Householder entitled to certain supply of water for demestic use. 295. The Commissioners at a meeting may determine what quantity of water shall be supplied to the occupier of every house free of further charge for every rupee paid to the Commissioners as water-rate on account of such house.

If the Commissioners have reason to believe that the occupier of any house consumes more water than he is entitled to as aforesaid, it shall be lawful for them to provide a watermeter at their own expense, and to attach the same to the water-pipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at such rate as the Commissioners at a meeting may determine.

Commissioners may provide ditered or unfiltered water for latrines.

296. It shall be at the option of the Commissioners to provide filtered or unfiltered water for all latrines and water-closets, and it shall be lawful for them to require that all latrines and water-closets supplied with water, filtered or unfiltered, shall be provided with a cistern of such size and description as the Commissioners shall direct, and all such cisterns shall be put up at the cost of the owner of the house or land so supplied with water.

Water may be cut off on neglect to pay the rate.

297. If any person supplied with water shall neglect to pay the water-rate hereinbefore mentioned at the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the Commissioners may turn off the water from the house or land in respect of which such rate or charge is payable, and may recover the expense of turning off the water from such person:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities

which he may have incurred.

¹ The words "through a meter", in a 294, were repealed by the Bengal Municipal (Amend-ment) Act, 1894 (Ben. Act 4 of 1894), s. 88, and are omitted.

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(Part VII.-Of a Water-supply.-Secs. 298-304.)

298. The occupier of any house or land in which water Complet in fragm whose bons supplied by the Commissioners under this Part is, from whom house negligence or other circumstances under the control of the said wasted liable. occupier, wasted, or in whose house or land the pipes, works or fittings for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

299. Any person otherwise causing waste of water suping waste of
water liable to a fine not exceedwater liable to plied by the Commissioners shall be liable to a fine not exceed-

ing five rupees.

300. It shall be within the discretion of the Commis- Commiss sioners to allow any person not residing within the limits of at their discre the municipality to take or be supplied with water for domestic person outside the town to use, on such terms as the Commissioners in meeting may from take water. time to time prescribe.

And any person taking or causing to be taken for use, Penalty. outside the limits of the municipality, water supplied by the Commissioners, without the permission of the Commissioners, shall be liable to a fine not exceeding fifty rupees.

301. Before a connection for the supply of water from the Before connection an officer service-pipes of the Commissioners to any house or land is of the Comsanctioned, the Commissioners may cause all the works, pipes unisatoner cause all and fittings within the said house or land to be inspected by an works and officer appointed by them in that behalf.

And the cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the Commissioners in meeting shall from time to time direct.

And, until such officer shall have certified to the Commissioners that the works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the Commissioners' service-pipes shall not be permitted.

302. The connection with the service-pipes of the Com- Connection missioners, as also the laying of supply-pipes under any public with service-road or thoroughfare, shall be executed by an officer of the executed only Commissioners authorized in that behalf and by no other of the Com-

And the expense of making such connection shall be payable in advance by the person applying for the same, at such rates as the Commissioners in meeting shall from time to time direct

303. Any person who shall unlawfully flush, draw off, Obstructing divert or take water from any water-works belonging to, or water. under the control of, the Commissioners, or from any water or streams by which such water-works are supplied, shall be liable to a fine not exceeding one hundred rupees.

304. No works for introducing a supply of water to any methy house shall be commenced by the owner without sending a of works to specification and estimate of the cost thereof to the occupier, be sent. nor by the occupier without sending such specification and

estimate to the owner.

inspected

(Part VII.—Of a Water-supply.—Part VIII.—Of Lighting with Gas.—Secs. 305-308.)

Owner to bear the cost of keeping works in repair. **305.** Except in the case of a special agreement to the contrary, the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this Part to the municipality in which the said house or land is situated.

Tanks, etc., vested in the Commissioners. 306. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits. tunnels, pipes, pumps and other water-works whether made, laid or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank shall become vested in the Commissioners.

Application of rates and moneys received from the supply of water. **307.** The water-rate and all moneys collected, received or recovered for or in respect of the supply of water or the execution of works, and all fines connected therewith, or in any respect relating to the water-supply, shall be applied by the Commissioners in defraying the expense of making, extending or maintaining the water-works, [in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct,] in paying the interest of money borrowed for the water-works, and in the liquidation of debts incurred in connection therewith or for some other purpose connected with the supply of water.

PART VIII.

OF LIGHTING WITH GAS.

Municipal Commissioners may anbmit to the Local, Government a plan for lighting. 308. In any municipality in which this Part shall have been introduced in the manner provided in section 222, it shall be lawful for the Commissioners, from time to time, to submit to the Local Government, for its sanction, a plan for lighting with gas any portion of any area situate within the municipal limits, whether so lighted already or not, such portion of the said area having been previously defined by the Commissioners at a meeting held for that purpose.

The Local Government shall cause the plan to be published for one month in the Calcutta Gazette, and the Commissioners shall publish it in the vernacular within the limits of the municipality; and after such publication, and after consideration of any objections which may be raised to it or alterations

¹The words in square brackets, in s. 807, were inserted by the Bengal Municipal Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

of 1884.1

(Part VIII.—Of Lighting with Gas.—Secs. 309-312.)

suggested in it, the Local Government may, if satisfied that the lighting proposed in the plan is proper and sufficient, sanction 1 such plan, or may refuse its sanction thereto, or may return it to the Commissioners for alteration in certain particulars to be specified by it, and when altered may sanction it as altered.

The Local Government shall cause its sanction to any plan to be notified in the Calcutta Gazette, and shall at the same time cause the plan sanctioned to be published in the said

After notification by the Local Government in the Lighting-rate 309. last preceding section mentioned, it shall be lawful for the three per Commissioners to impose an annual rate not exceeding three per per centum of their annual value upon all holdings situated of plan, be within such portion of the said area for the purpose of defraywithin such portion of the said area for the purpose of defraying the whole expense of lighting:

Provided that, as regards any portion of the said area Proviso as to already lighted with gas, for the future lighting of which a already plan shall have been sanctioned by the Local Government lighted, under the provision of the last preceding section, if it shall appear that the estimated proceeds of the said rate at three per centum will not be sufficient to defray the whole expense of such lighting, it shall be lawful for the Commissioners to impose a rate sufficient to defray the whole expense of lighting such portion.

310. The rate imposed under the last preceding section Rate payable on holdings shall be word by the countries thereof by quarterly instalments in advance; but no rate shall be leviable advance. upon holdings shall be paid by the occupiers thereof by until the lamps in the portion of the area to be lighted shall have been lighted; nor shall any rate be leviable for any quarter or portion of a quarter antecedent to such lighting.

311. The annual value of holdings shall be the value deter- valuation mined by the Commissioners for the imposition of the rate on and collection holdings under the provisions of Part IV of this Act, or, if no of lightingsuch rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive) and 112 to 130 (both inclusive) shall, mutatis mutandis, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the lighting rate.

312. If any holding shall be occupied by more than one Power to tenant holding severally, or shall be of less annual value than in cortain one hundred rupees, it shall be lawful for the Commissioners on to recover the rate from the owner of such holding.

¹ For a list of notifications issued under fection 808 for Bengal as constituted on the 81st March 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

8 As to the imposition of a lighting rate, see also a. 86, απες, p. 745.

(Part VIII.-Of Lighting with Gas.-Secs. 318-316.)

Owner to recover from the occupier rates paid by awner 313. Whenever any rate shall be recovered from any owner of any holding under the provisions of the last preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the rate which shall have been so paid by such owner; and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding, then to recover from such tenant, or each of such tenants, such sum as shall bear to the entire amount of rate which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding sections.

Owner may recover rate so paid as rept. 314. Every owner who, under the provisions of the last preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof shall have for the recovery of such sum all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

Occupier liable to the rate for time of occupation only. 315. Every occupier shall be liable to the lighting-rate for the time of his occupation. When any person shall have been an occupier for a part only of any quarter, he shall be liable only for so much of the rate for that quarter as may be proportionate to the number of days during which he shall have been an occupier.

Excess paid in advance to be refunded. If he shall have paid the rate in advance, the amount paid in excess of the sum due under this section shall be refunded.

No rate to b charged during vacancy. No such rate shall be chargeable to any person on account of any unoccupied holding for the time during which it may remain unoccupied:

Notice of cessation of cocupancy to be given within seven days. Provided always that, when any person ceases to be the occupier of any holding upon which the rate has been assessed, he shall give the Commissioners notice to that effect within seven days from the date of the cessation of his occupancy. If the occupier fail to give such notice within such period, he shall be liable to the rate assessed on such holding for the whole quarter, although he may have occupied for a part only of such quarter; and, in cases to which the provisions of section 312 apply, the rate assessed on such holding for the whole quarter shall be recoverable from the owner, if such owner has failed to give notice that such holding is unoccupied, within seven days from the date on which it ceased to be occupied.

Unknown
owner or
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ho he

When the name of the owner or occupier of any holding is not known, it shall be sufficient to designate him, in any notice served or proceeding held under this Part, as the owner

(Part VIII,-Of Lighting with Gas.-Secs. 317-319.)

or the occupier of the holding on which the rate is assessed, and without further description.

317. If the Commissioners deem it necessary for the Situation of purposes of this Part to raise, sink or otherwise alter the situation of any gas-pipe or other gas-work laid in any portion of
the said area they may from time to time her portion of the said area, they may, from time to time, by notice in exp writing, require the person to whom any such pipe or work store belongs, or under whose control it may be, to cause forthwith, or as soon as conveniently may be, any such pipe or work to be raised, sunk or otherwise altered in position, in such manner as the Commissioners may direct:

Provided that such alteration be not such as permanently to injure such pipe or work, or to prevent the gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners out of the municipal fund as well to the person to whom such pipe

or work belongs as to all other persons.

318. If the person to whom any such pipe or work belongs, If owner, etc., or under whose control it may be, do not proceed forthwith, neglect to as soon as conveniently may be, after the receipt of such alterations, the Commissioners may manner at the Commissioners may manner as the Commissioners require, the Commissioners may cause the themselves cause such pipe or work to be raised, sunk or alter- made. ed as they may think fit:

Provided that such works be not permanently injured thereby, or the gas prevented from flowing as freely and convenient-

ly as before.

1318A. The lighting rate and all the moneys collected, Application received or recovered for, or in respect of, lighting, or the moneys execution of works and all fines convected the convicts or in one received for execution of works, and all fines connected therewith, or in any lighting. respect relating to lighting, shall be applied by the Commissioners in defraying the expenses of making, extending or maintaining the lighting system, in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct, in paying the interest of money borrowed for lighting, and in the liquidation of debts incurred in connection therewith, or for some other purposes connected with lighting.

The provisions of this Part shall apply, so far as may be possible, to any scheme which may be adopted by the office system of lighting. Commissioners of any municipality for lighting the municipality under any system involving the laying of pipes or wires or

other similar apparatus.

¹ Section 318A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 85, in Vol. III of this Code.

Bott. Act 1

(Part IX.—Of the Construction and Cleansing of Latrines.— Secs. 320-322.)

PART IX.

OF THE CONSTRUCTION AND CLEANSING OF LATRINES.

Notice to be issued by the Commissioners. **320.** In any municipality to which the provisions of this Part shall have been extended in the manner prescribed by section 222, the Commissioners may issue a notice declaring that, from a date to be specified in such notice, they will maintain an establishment for the cleansing of • • • 1 private [privies and cesspools] within the limits of the municipality, or any part thereof; and the Commissioners shall make suit able provision accordingly.

Commissioners may levy fees.

321. When such provision has been made, the Commissioners may levy fees, to be fixed on such scale, with reference to the annual value of holdings (containing dwelling-houses) (or privies) within the limits of the municipality, or such part thereof as aforesaid, as the Commissioners at a meeting may from time to time direct;

but the fee shall not exceed three rupees per annum where the valuation of the holding amounts to, or is less than, twentyfive rupees;

and the fee on any one holding shall not exceed four hund-

red and eighty rupees:

Provided that if, on the commencement of this Act, the owners or occupiers of any holding are already under engagement to pay to the Commissioners an annual sum exceeding four hundred and eighty rupees for the cleaning of their premises, such sum, or such other sum as may from time to time be agreed upon between them and the Commissioners. may be levied from them in accordance with the provisions of this Part.

Recovery of fees.

*322. (1) The said fee shall be payable in quarterly instalments by the occupier for the time being of the holding or by the owner thereof if there is no occupier, or under the provisions of the next succeeding section, and shall be recoverable in the manner prescribed for the recovery of the rate on the value of holdings in this Act, and the provisions of section 110 shall be applicable.

¹ The words "public and", in a 320, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a 86, and are omitted.

8 The words "privies and cosspools", in a 320, were substituted for the word "latrines" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a 86, in Vol. III of this Code.

Code.

3 As to the levy of these fees, see also s. 86, ants, p. 746.
4 The words "containing dwelling-houses", in a. 821, were 'inserted by the Bengal Municipal (Amendment') Act, 1894 (Ben. Act 4 of 1894), s. 87, in Vol. III of this Code.
5 The words "c privies", in a. 821, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 2 of 1896), s. 18, in Vol. III of this Code.

4 This section was substituted for the original section '322 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 88, in Vol. III of this Code.

(Part IX.-Of the Construction and Cleansing of Latrines.-Secs. 323-326.)

(2) Every instalment of the said fee shall be deemed to be due on the first day of the quarter in respect of which such

instalment is payable.

1 [(3) The net proceeds of the said fees, after deducting a proportionate share, to be fixed by the Commissioners in meeting, of the cost of the staff employed in collecting and in supervising the collection of the fees and in keeping and auditing the accounts thereof, shall be applied to the maintenance of the establishment referred to in section 320, and generally to carrying out the provisions of this Part.]

(4) A list of the said fees, and of the persons liable to pay the same, shall be published once in every year as prescribed

in section 354:

Provided that no such fees shall be levied in respect of any shop or place of business which does not contain any privies or cesspools, when a fee under this Part is levied from the occupier thereof in respect of his dwelling-house within the

same municipality.

323. If any holding is occupied in severalty by more than in certain one person, the Commissioners may levy the said fee from the be levied from owner of such holding, who may recover from each occupier owner, who may recover such sum as shall bear to the entire amount of the fee so levied from occuthe same proportion as the value of the part of the holding in pier. the occupation of such person bears to the entire value of such holding.

324. Every owner who, under the provisions of the last Owner may preceding section, is entitled to recover any sum from the from occupier occupier of any part of a holding shall have for the recovery of the said sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him by the occupier in respect of such portion of the holding as may be in

his occupation. 325. The Commissioners at their discretion may com-

pound for any period not exceeding one year, with any occupier or owner as aforesaid of any railway premises or of any premises used as a factory, dockyard, workshop, coolie depot, octain promises of fee school, hospital, market, court-house or other similar place, for a

certain sum to be paid by such occupier or owner in lieu of such fee.

The Commissioners may, in lieu of the aforesaid fee, commissioners may 326. levy a rate per head, to be fixed by the said Commissioners at levy a rate a meeting, on the number of persons living within or habitually per head. resorting to any such railway premises, factory, dockyard, workshop, coolie depôt, school, hospital, market, court-house or other similar place. .

compound with occupies or owner of

¹ This sub-section was substituted for the original sub-section (3) by the Bengal Municipal (Ameadment) Act, 1896 (Ben. Act 2 of 1896), s. 16, in Vol. III of this Uode.

Ben. Act 3

(Part IX.—Of the Construction and Cleansing of Latrines.—Secs. 327-333.)

327, 328. (Commissioners may reduce or remit fee.—Penalty). Rep. by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 89.

329. No person liable to pay a fee or rate under the provisions of this Part shall be punished with fine for neglecting or refusing to keep his privy in a proper state under section 217, clause (3).

330. All servants of the Commissioners employed for the purposes of this Part may, within such hours as may be fixed by the Commissioners, enter on any premises of which the occupier or owner is liable to pay a fee or rate as aforesaid, and do all things necessary for the performance of their duties under this Part.

331. The Commissioners at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of the municipality, or any part thereof, to take out licenses, and to be servants of the Commissioners for the purpose of removing sewage from premises within the said limits.

The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

Subject to the approval of the Local Government, the Commissioners may make rules to define the duties of such persons, and from time to time may alter, add to or repeal such rules; and any breach of such rules shall subject the offender to a forfeiture of license and to a fine not exceeding twenty rupees.

additional or common latrine should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the Commissioners, or within such longer time as the Commissioners may for special reasons allow, cause such latrine to be constructed in accordance with the requisition of such notice; and, if such latrine is not constructed to the satisfaction of the Commissioners within such period, the Commissioners may cause the same to be constructed, and the expenses thereby incurred shall be paid by the owners, and shall be recoverable as provided in section 322.

333. The Commissioners may, for the purposes of this Part, by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in, or habitually resorting to, such holding.

Exemption from prosecution under section 217.

Powers of servants of Commissioners.

Commissioners may require nightmen to take out licenses.

Commissioners may require latrine to be constructed and in default may construct themselves.

Commissioners may require list of persons in a holding.

¹ As to the delegation to Commissioners of Divisions of the Local Government's powers, ess. 3.29A, asse, p. 724.

5 For rules made under s. 881 fer Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt VI.

(Part IX -Of the Construction and Cleansing of Latrines. -Part X.-Regulation of Markets.-Secs. 334-339.)

334. Whoever, being the owner or occupier of any hold- Person. ing, fails to furnish such list within the time specified in such notice, after being required to furnish the same by the Commissioners, shall be liable to a fine not exceeding one hundred rupees.

¹334A. The provisions of this Part shall not apply to any Exemption of jail, reformatory or lunatic asylum in which an establishment islis, etc. is maintained for the cleansing of privies and cesspools

therein.

PART X.

REGULATION OF MARKETS.

335. In any municipality to which this Part shall have Power to been extended in the manner prescribed by section 222, the Commerces. missioners at a meeting may provide land for the purpose of being used as a municipal market, and may defray the cost of providing such land and of all expenses necessary for the establishment of such market from the municipal fund, and may take a lease of any market;

and may charge rent, tolls and fees for the right to expose goods for sale in such market and for the use of shops, stalls and standings therein.

All such rents, tolls and fees may be recovered as arrears of

tax under the provisions of sections 120 to 129 (both inclusive).

336. No place shall be deemed to be a "municipal market" within the meaning of the last preceding section, and no place "munic market" shall be deemed to be a market to which the following sections "market." of this Part apply, unless at least thirty shops, stalls or standings are erected therein for the sale of goods.

Definition of "municipal

337. The Commissioners at a meeting may order that, Commiswithin such limits as they may fix, no land shall be used as a stoners may prohibit and market for the sale of meat, fish, butter, ghee, fruits, vegetables of unlicensed and similar provisions, otherwise than under a license to be

granted by the Commissioners.

338. When the Commissioners at a meeting shall have Power to issued an order under the last preceding section, they may at a grant license for markets. meeting grant a license for the use of any land as a market for the sale of provisions as aforesaid within the municipality.

339. Every license granted under this Part shall be liable Duration of to the payment of a fee not exceeding twenty-five rupees, licenses and terms on and shall be in force until the end of the year, and the which granted.

¹ Section 884A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Sen. Act 4 of 1894), s. 90, in Vol. III of this Code.

(Part X.-Regulation of Markets.-Secs. 340-345.)

Commissioners 1 [shall, as regards markets lawfully established at the time of the extension of this Part to the municipality, and in all other cases] may grant such license, year by year, on the certificate in writing under the hand of the Chairman, annually renewed, that the land is fit to be used as a market for the sale of provisions as aforesaid.

340. The Chairman, upon the application in writing of the owner of any land, shall grant such certificate unless the land be defective for the purposes of a market in drainage, ventilation, water-supply or proper width of paths and

Existing markets.

The owners or lessees of all land used as markets for the sale of provisions as aforesaid at the time of the extension of this Part to the municipality shall be entitled to receive a license for the current year without the certificate required by section 339, but in subsequent years the license shall not be renewed without such certificate.

Licenses to be registered.

Chairman

bound to

certify fit nlace

- **341.** Every license under this Part shall be registered in a book to be kept for that purpose by the Commissioners in their office, in which shall be stated-
 - (a) the name and address of the owner of the land an market;
 - (b) the name and address of the lessee thereof (if any):
 - (c) the extent and boundary of the market;
 - (d) the description of articles sold therein; and
 - (e) the days on which the market will be held.

Transfers to be registered.

Unsegistered markets to be deemed unlicensed.

Penalty for using unlicensed

be registered within two months after the date of transfer. 343. Any market the license of which, or the transfer of

342. Every transfer of interest in any such market shall

interest in which, shall not have been duly registered under the two last preceding sections, shall be deemed to be land used as a market without a license.

344. Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market for the sale of meat, fish, butter, ghee, fruits, vegetables or similar provisions without license under section 338, shall be liable to a fine not exceeding two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction of such offence.

345. The Magistrate, on the application of the Commissioners, may order any land, in respect of which a conviction shall have been obtained under the last preceding section, to be closed as a market-place, and thereupon may take order

¹ The words in square brackets in a, 389 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 91, in Vol. III of this Code.

of 1884.]

(Part XI.—Of the Registration of Births and Deaths.— Secs. 346-349.)

to prevent such land being so used; and every person who shall sell or expose for sale meat, fish butter, ghee, fruits, vegetables or similar provisions on any land which shall have been so closed, shall be liable for every such offence, to a fine not exceeding ten rupees.

PART XI.

OF THE REGISTRATION OF BIRTHS AND DEATHS.

346. The Commissioners of any municipality, when required by the Local Government to do so, shall provide for the deaths, registration of births and deaths within the limits of the municipality in accordance with the provisions of Bengal Act 4 of 1873 (for registering births and deaths) or any other similar Act for the time being in force.

347. The Local Government may require the Commis- on regulation sioners of any municipality to appoint and maintain at any burning-ghat and burial-ground a sub-registrar for the regismissioners to appoint and proper an tration of all corpses brought to such burning-ghat or burialregularians
ground for cremation or interment. ground for cremation or interment.

348. Whenever a sub-registrar shall have been appointed Information for any burning-ghat or burial-ground under the last preceding Bengal Act section, information of the particulars required by section 8 of 4 of 1878 to be given Bengal Act 4 of 1873 to be known and registered may be to such subgiven in respect of the death of any person whose body is registrar. brought to such burning-ghat or burial-ground for cremation or interment to such sub-registrar, and information so given shall be deemed to be information given to the registrar of the district as required by the said section.

Section 9 of Bengal Act 4 of 18731 shall be applicable to all

sub-registrars appointed under this Act.

349. Whenever a death shall occur in any hospital within Information of deaths in the limits of any municipality in respect of which the Local hospitals. Government has directed that all deaths shall be registered under Bengal Act 4 of 1873,1 it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the Commissioners in such form as the Local Government may prescribe; and in such case no other person shall be required to give

ghats and burial rounds.

¹ The Bengal Births and Deaths Registration Act, 1873. It is printed este, p. 231.

Ben. Act 8

(Part XIA.—Extinction and Prevention of Fire.—
Sec. 349A, 349B.)

information of such death to a registrar under Bengal Act 4 of 1873 or to a sub-registrar under this Act.

PART XIA.

EXTINCTION AND PREVENTION OF FIRE.

Establishment and maintenance of firebrigade ² **349A.** For the prevention and extinction of fire, the Commissioners at a meeting may resolve to establish and maintain a fire-brigade and to provide any implements, machinery, or means of communicating intelligence which the Commissioners may think necessary for the efficient discharge of their duties by the brigade.

Power of firebrigade and other person for suppression of fires.

- *349B. (1) On the occasion of a fire in a municipality, any Magistrate, any Municipal Commissioner, the Secretary to the Commissioners, any member of a fire-brigade maintained by the Commissioners, then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate or by a Municipal Commissioner) any Police Officer above the rank of constable may—
 - (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire, or for saving life or property;
 - (b) close any street or passage in or near which any fire is burning;
 - (c) for the purpose of extinguishing the fire, break into or through, or pull down, or use for the passage of any house or other appliance, any premises;
 - (d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred:
 - (e) call on the persons in charge of any fire-engine to render such assistance as may be possible;
 - (f) generally take such measures as may appear necessary for the preservation of life or property.
- (2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

i The Bengal Births and Deaths Registration Act, 1878. It is printed ants, p. 281.

2 Part XIA (as. 249A and 249B) was inserted by the Bengal Municipal (Amendment) Act, 1894
(Ben. Act 4 of 1894), a. 92, in Vol. III of this Code.

of 1884.]

(Part XIB.—Sanitary Officers.—Secs. 349C-349E.)

1 PART XIB.

SANITARY OFFICERS.

¹349C. (1) The Local Government may, by notification Power to published in the Calcutta Gazette, anounce its intention to declare this Part to be in declare this Part to be in force in any Municipality.

Municipality.

- (2) If the Commissioners or any ratepayer of any such Municipality object or objects to this Part being declared in force in the Municipality, they or he may, within a period of, two months from such publication, submit such objection in writing, through the District Magistrate, to the Local Government; and the Local Government shall consider all objections so sent.
- (3) After the expiration of the said period, the Local Government, if no objections have been so sent, or if it considers that the objections so sent are insufficient, may, by a like notification, make the proposed declaration.
- (4) The substance of every notification under sub-section (1) or sub-section (3) shall be translated, deposited, posted and proclaimed, within the Municipality affected, in the manner prescribed by section 354.
- 349D. (1) Notwithstanding anything contained in section Appointment of Sanitary 46, the Commissioners of every Municipality in which this officers. Part is in force shall from time to time, at a meeting, appoint for the Municipality—

- (a) a Health Officer, or
- (b) a Health Officer and one or more Sanitary Inspectors,
- (c) one or more Sanitary Inspectors,

as the Local Government may, by notification in the Calcutta Gazette, direct; such Health Officer to be of such class, and such Sanitary Inspectors to posses such qualifications, as may be so directed.

(2) The provisions of sub-section (1) shall not apply to any Municipality the income of which falls below ten thousand rupees a year.

1349 E. The Local Government shall from time to time allowances of the salaries to be paid to Health Officers and Sanitary Sanitary fix the salaries to be paid to Health Officers and Sanitary Inspectors out of the Municipal Fund, and the allowances

to be granted to them during absence on leave.

¹ Part XI B (sections 849C to 849 H) was inserted by the Bengal Municipal (Sanitary Officers). Act, 1914 (Ben. Act 2 of 1914), s. 2, in Vol. III of this Code

[Bon, Aut 3

(Part XIB.—Sanitary Officers.—Part XII.— Miscellaneous.—Secs. 349F-350).

Power to make rules.

- 1349F. The Local Government may from time to time make rules prescribing-
 - (a) the qualifications of candidates for employment as Health Officers and Sanitary Inspectors respectively;
 - (b) the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifica-

IIn whole-

1349G. When a Health Officer has been appointed for any Municipality, the power conferred by section 199A shall be exerciseable by him as well as by the Chief Civil Medical Officer of the district.

Application of Act to Sanitary

¹349H. Every section of this Act which relates to Municipal Officers or servants shall, so far as it may be applicable, apply to the officers referred to in section 349D:

Provided that no Health Officer appointed thereunder shall be dismissed without the sanction of the Local Government.

PART XII.

MISCELLANEOUS.

350. The Commissioners of any municipality may from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such by-laws as they deem fit, not being inconsistent with this Act, or with any other general or special law, for-

- ³(a) regulating traffic, and for the prevention of obstructions and encroachments, and of nuisances on or near roads;
- '(aa) prohibiting the letting-off of fire-arms, fire-works, fireballoons or bombs, except (i) with the permission of the Commissioners or a member of the Ward

¹ Sections 849F to 849H are new—see foot-note on p 847, ante.

8 For a list of by-laws made under s. 859 for Bengal as constituted on the 81st March, 1912, see
the Bengal Local Statutory Rules and Orders, 1912. Vol I, Pt. VI.

9 Clause (a) and clauses (b) to (f) were substituted for the words "giving effect to the objects
of this Act by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 98, in
Vol. III of this Code.

4 Clause (es) was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act, 2 of
1896), s. 17, in Vol. III of this Code.

of 1884.]

(Part XII.—Miscellaneous.—Sec. 350A.)

Committee or a municipal officer empowered by the Commissioners in this behalf, and (ii) on payment of fees at such rates as may be sanctioned by the Commissioners at a meeting;

- (b) regulating the use of, and the prevention of nuisances in regard to, public water-supply, bathing and streams, channels, tanks and washing-places, wells;
- 1(c) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the management of privies, drains, cesspools and sewers;
- 1(d) regulating cremations and burials and the disposal of corpses;
- '(e) preventing nuisances affecting the public health, safety or convenience; and
- '(f) giving effect to the objects of this Act;

and may by such by-laws impose on offenders against the same such reasonable penalties as they think fit not exceeding the sum of fifty rupees for each offence, and in case of a continning offence, a further penalty not exceeding twenty rupees for each day after written notice of the offence from the Commissioners.

Additional power to make by-laws in hill municipalities.

Commis-² 350A. The sioners of a municipality wholly or in part situated in a hilly tract may, at a meeting, in addition to such by-laws as they may make under the last preceding section, make, repeal or alter by-laws

for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Commissioners to be necessary for

350 A. (1) The Commis- Additional sioners, at a meeting which has power to make by-laws. been convened expressly for the purpose and of which due notice has been given, may, from time to time, make bylaws for enforcing, prohibiting or regulating the doing of any act which may, in the opinion of the Commissioners, affect the stability or security of any hillside or bank or any immovable property thereon.

(2) In particular, and without prejudice to the generality of the foregoing power, the

¹ See foot-note 3 on page 848, ante.

2 This section 850A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of This section 850A was inserted by the Bengal Municipalities in Bengal except Darjeeling.

1894), s. 74, in Vol. III of this Code. It applies to all Municipalities in Bengal except Darjeeling.

2 These section 850A and 850B were substituted for the section 850 A printed opposite, for the Parjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 30, in Vol. III of this Code.

4 for by-laws made under this s. 850 A, see the Bengal Local Statutors.

this Code. Laws made under this s. 860 A, see the Bengai Local Statutory Rules and Orders, 1913,

(Part XII.-Miscellaneous.-Sec. 350A.)

any or all of the following purposes:—

- (a) the maintenance of a water-supply;
- (b) the preservation of the soil;
- (c) the prevention of landslips;
- (d) the formation of ravines or torrents:
- (e) the protection of land against erosion or the deposit thereon of sand, gravel or stones.

Commissioners at a meeting as aforesaid may make by-laws for all or any of the following purposes, namely:—

- (a) prohibiting or regulating the making of excavations, the cutting of hillsides or banks and the removal of soil from hillsides or banks;
- (b) prohibiting or regulating quarrying;
- (c) prohibiting or regulating the removal of stones from hillsides, banks, *jhoras* or sites of landslips;
- (d) for preventing or regulating the grazing or straying of cattle on hillsides or banks;
- (e) for preventing the straying of poultry;
- (f) for enforcing regulating the cutting, trimming or removal of trees, sbrubs, bamboos, bushes or hedges bordering on, overhanging or obstructing any road or drain, or causing or being likely cause damage injury to any road or drain or to any person using any road;
- (g) for enforcing, regulating or prohibiting
 the cutting or destroying of trees, shrubs, bamboos or plants;
- (h) for enforcing, regulating or prohibiting

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of 1884,]

(Part XII.-Miscellaneous.-Sec. 350B.)

the making of, or for regulating the maintenance of, gardens or garden-terraces;

- (j) for prohibiting or regulating the making of holes or the placing of loose earth for or around trees, shrubs, bam-
- boos or plants; (k) for enforcing regulating the plant-ing and mainten-ance of particular kinds of trees, shrubs, bamboos or plants on land, where, the in opinion of the Commissioners. such enforcement regulation is necessary or desirable with a view to the better protection of hillside or any bank from landslips.

(3) The word "cattle," as used in clause (d), shall have the same meaning as in the Cattle-trespass Act, 1871.1

cattle-trespass Act, 1011.

2350 B. The Commission-Fines for breach of by-law made under section 350A, declare under section 350A, declare under section 850A. that any person committing a breach of any such by-law, or failing to comply with any notice issued thereunder, shall be liable to fine which may extend to fifty rupees and to further fine which may extend to twenty rupees for each day after conviction during which the offence is continued. •

1 of 1871

¹ Printed in the General Acts, 1868-78, Ed. 1909, p. 159.

See foot-note s on page 849, ante.

(Part XII.—Miscellaneous.—Secs. 351, 351A.)

Confirmation of by-laws.

351. By-laws made under this Act shall not take effect unless and until they have been submitted to, and confirmed by, the Local Government; nor shall such by-laws be con-

unless one month at least before the making of the application notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such by-laws relate, or, if there be no such newspapers, then in such manner as the Commissioners may direct; and

unless for one month at least before any such application a copy of the proposed by-laws has been kept at the office of the Commissioners, and has been open during office hours there at to the inspection of the inhabitants of the municipality to which such by-laws relate, without fee or reward.

The Commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed by-laws, on payment of four annas for every hundred words contained in the copy.

as to husiness and affairs.

- government may cancel its confirmation of may cancel its any such by-law, and thereupon the by-law shall cease to have onlimation effect.]
 - **351A.** (1) The Commissioners at a meeting may from time to time make, repeal or alter rules as to-
 - (a) the time and place of their meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given;
 - (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
 - (c) the custody of the common seal;
 - (d) the division of duties among the Commissioners, and the powers to be exercised by sub-committees or members to whom particular duties are assigned;
 - (e) the persons by whom receipts shall be granted for money received under this Act;
 - f(f) [the duties, appointment, leave, fining, suspension and removal of municipal officers and servants;]
 - (q) and other similar matters.

¹ The paragraph of s. 851, which was repealed by the Bengal Municipal (Amendment) Act, 1894
Ben. Act 4 of 1894), s. 85, is omitted.
2 This paragraph was added to s. 851 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 16 1894), s. 95, in Vol. III of this Code.
2 Section 3555 was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 95, in Vol. III of this Code.
4 For Tists of rules made under s. 851 A for Bengal as constituted on the 31st March, 1912, see 1895 Bengal Local Statutory Raises and Orders, 1912, Vol. 2, Pt. VI.
3 This classe (f) was substituted for the former clause (f) by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 18, in Vol. III of this Code.

of 1884.].

(Part XII.—Miscellaneous.—Secs. 351 B, 351 C.)

(2) Rules made under this section, consistent with this Act, shall be subject to the sanction of the Local Government, and shall, if sanctioned, be published in such manner as the Local Government may direct, and shall have the force of law.

1351B. (1) The Local Government may Power to make rules to regulate any of the matters make rules for referred to in sections 201F, 229A, 237 and 248E, amendment of and may by such rules alter, add to, or cancel 8,6 and D any of the rules contained in Schedules A, B, C and D, respectively.

(2) All references in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred

by sub-section (1).

1351C. The Commissioners, or any officer in Power of receipt of a salary of not less than fifty rupees entry to inspect, survey per mensem, who may be authorized by them or execute in that behalf, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation or inquiry or execute any work which is authorized by any of the clauses enacted by the Darjeeling Municipal Act, 1900, or by any rule or by-law made under any such clause, or which it is necessary, for any of the purposes or in pursuance of any of the provisions of any such clause, rule or by-law, to make or execute:

Ben. Act 1 of 1900.

Provided as follows:—

(a) except when it is in this Act otherwise provided, no such entry shall be made between sunset and sunrise;

- (b) except when it is in this Act otherwise provided, no dwelling-house, and no hut which is used as a dwellingplace, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier of at least six hours' previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given, even when any premises

¹Sections 351B to 351H were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 21, in Vol. III of this Code.

²Under this power, rule 1 in Schedule B and rule 21 (c) in Schedule C^{*}have been amended and new rules 3A, 3B and 3C have been inserted in Schedule C—see foot-notes on pages 871, 878 and 874,

(Part XII.-Miscellaneous.-Secs. 351D-351F.)

may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

¹351D. (1) The Local Government may, by notification in the Calcutta Gazette, appoint? an Engineer to hear appeals under this Act.

(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under section 201C, sub-section (4), section 210, section 210B, section 210C, section 224B, sub-section (3), section 228, section 239, clause (b), section 243, clause (b), section 244E, sub-section (2), section 244H, sub-section (1) or sub-section (3), section 244L, clause (b), section 244Q, sub-section (2), section 244V, section 248A, section 248B, section 248C or section 248D.

351E. An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of section 228, section 248B, section 248C, or section 2481).

¹351F. Every appeal under section 351D or section 351E must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made:

Provided as follows :---

(a) if in any case the said period expires on a day when the office of the aforesaid Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is reopened;

(b) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate

Appeal to Commission Division.

Limitation of time for appeal.

¹ See foot-note ¹ on page 858, sate ⁸ See the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI

øf. 1884.].

(Part XII.-Miscellaneous.-Secs. 351G-353.)

authority that he had sufficient cause for not presenting the appeal within such period.

1351G. (1) In dealing with any appeal Assessors in preferred to him under section 351E, the Commissioner shall be assisted by two assessors, of the Division. who shall be selected and summoned by him for each appeal, or group of appeals, from a list to be prepared annually by the Deputy Commissioner:

Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his

absence.

(2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioners shall not be bound to conform to their opinions.

1351H. (1) If the Engineer appointed Record of decision of the under section 351D, or the Commissioner of the appeal or Division, rejects any appeal preferred to him reference. under this Act, he shall, by written order, specifically state the grounds for such rejection. (2) The said Engineer shall, when deciding

any reference made to him under this Act, specifically state in writing the grounds for his

decision.

(3) A copy of all orders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer on any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders.

352. The Commissioners may direct any prosecution for Commissioners any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this Act, and for the torpublic punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

363. No prosecution for an offence under this Act or any No prosecution by-law made in pursuance thereof shall be instituted without offense and the order or consent of the Commissioners, and no such prose-this Act to cution shall be instituted except within [six] months next without after the commission of such offence, unless the offence is Commission continuous in its nature, in which case a prosecution may be stoness.

may direct

¹ See foot-note ¹ on page 858, sate.

²The word "six", in a 858, was substituted for the word "three" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 97, in Vol. III of this Code.

Den. Act 3

(Part XII.-Miscellaneous, -Secs. 354-357.)

instituted within [six] months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman of the Commissioners:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Publication of by-laws,

354. Every by-law, order, notice or other document directed to be published under this Act shall be written in, or translated into, the vernacular of the district, and deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other public places as the Commissioners may direct.

And a public proclamation shall be made throughout such municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection

in the office of the Commissioners.

Levy of fines.

355. Fines under this Act may be imposed by a Magistrate on any person who is convicted of the offence to which the fine attaches, and may be levied under the provisions of the Code of Criminal Procedure, 1882.2

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How notice, etc., may be served.

.356. Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person to whom the same is addressed;

or be left at his usual place of abode with some adult male

member or servant of his family;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode;

or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended

notice on

357. When any notice is required to be given to the owner or to the occupier of any land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such land, or otherwise in the manner in

the last preceding section mentioned:

Provided that, when the owner and his place of abode are known to the Commissioners or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family;

and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered

¹ See foot-note 2 on page 865 ante.

2 Act 19 of 1822 has been repealed and re-enacted by the Code of Criminal Procedure, 1828 (5 1822), and this reference should now be taken to be made to that Code—see s. 8 (1) thereof, General Acts, 1820-1908, Ed. 1908, p. 40.

(Pull XII.—Miscellaneous.—Secs. 358-362.)

cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known, it shall be sufficient to designate him as "the owner" or "the occupier" of the land in respect of which the notice is served.

358. No assessment or rating of tax on property shall be Tax not in aball be enough in invalid for invalid for error or defect of form, and it shall be enough in invalid for want of to any assessment, valuation or rating for the purpose of making such tax if the property so assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

359. Every person to whom a license has been granted Holder of under this Act shall, at all reasonable times, while such license license to shall remain in force, if thereunto required by the authorities when which granted the license or by any person authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Whoever fails to produce his license when required to Penalty. produce the same by any person authorized under this section to demand the production thereof shall be liable to a fine not exceeding one hundred rupees.

360. All costs, expenses, fees, tolls or other moneys due Recovery of any municipality may money des under this Act to the Commissioners of any municipality may be recovered in the manner provided in sections 120 to 129 moses does to the Com-(both inclusive).

361. If money be due under this Act in respect of any Power to sell holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner money due. of such holding is unknown or the ownership thereof is disputed, the Commissioners may publish twice, at an interval of three months, a notification of sale of such holding, and, after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit the full amount of the purchase-

After deducting the amount due to the Commissioners as aforesaid, the surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a sait in a Court of competent jurisdiction from any person beneficially interested in such property.

The Commissioners may make compensation out of co the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.



(Part XII.-Miscellaneous.-Secs. 363-365.)

No action to se brought gainst the commistioners or their officers intil after me month's rotice of succe of sction. 363. No suit shall be brought against the Commissioners of any municipality, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Commissioners and also (if the suit is intended to be brought against any officer of the said Commissioners or any person acting under their direction) at the place of abode of the person against whom such suit is threatened to be brought, stating the cause of sait and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If the Commissioners or their officer, or any person to whom any such notice is given, shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Chaukidari chákardn lands.

364. Notwithstanding anything contained in section 3 of Bengal Act 6 of 18701 (an Act to provide for the appointment, dismissal and maintenance of village chaukidars), the provisions of Part II of the said Act, relating to chaukidari chákarán lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the panchayat of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the princhayat of a village or any member thereof is authorized to exercise under the said Part shall be exercised by the Commissioners of such municipality, and the proceeds of the assessment-on such lands made under the said Part shall be paid into the municipal fund, and shall be available for the purposes of such fund.

365. All police-officers shall give immediate information to the Commissioners of the municipality of any offence committed against this Act ²[or any by-law made in pursuance thereof].

When any person, in the presence of a police-officer, commits, or is accused of committing, any such offence, and refuses, on demand of a police-officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he

to report inflances and screen persons selvening to give name and testionos

⁵ The Village Chaukidari Act, 1870. It is printed, acte, p. 178.
4 The words "or any by-ksw made in pursuance thereof", in a. 365, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), a. 98, in Vol. III of this Code.

(Part XII.-Miscellaneous.-Secs. 366, 367.)

shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

¹ [Upon the recommendation of the Commissioners, any servant of the Commissioners in receipt of a salary of not less than ten rupees per mensem, when empowered in that behalf by a general or special order of the District Magistrate, may exercise the powers of a police-officer under this section.]

IS of 1860.

366. If any person employed under this Act (not being a Possity) public servant within the meaning of section 21 of the Indian taking Penal Code) shall accept or obtain, or agree to accept or attempt auth to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Commissioners or with any public servant or with the Government in the discharge of his official duties, he shall be punished with imprisonment, either simple or rigorous, as provided in section 53 of the Indian Penal Code for a term which may extend to three years, or with a fine not exceeding five thousand rupees, or with both.

5 of 1860.

367. Nothing in this Act contained shall be construed to— saving class

- (a) render lawful any act or omission on the part of any person which, but for this Act, would by law be deemed to be a nuisance;
- (b) exempt any person guilty of nuisance from a suit in respect thereof;
- (c) affect any enactment not hereby expressly repealed.

This paragraph was added to section 865 by the Bengal Municipal (Amendment) Act, 1894 m. Act 4 of 1894), s. 98, in Vol. III of this Code.
 Printed in the General Acts, 1884-67, Ed. 1909, p. 248.



(The First Schedule.)

THE FIRST SCHEDULE.

(See sections 8 and 17.)

Municipalities in which the Commissioners shall be appointed by the Local Government.

District.			Municipality.
Khulna	•••		[Chanduria:]
Ditto	•••	•••	Debhatta.
Darjeeling	•••	•••	Darjeeling.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

Bakarganj	•••	Nalchiti.	
Ditto	•••	Jhalakati.	
Chittagong	•••	Cox's Baza	r.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

Schedule I is referred to in sections 8, 17 and 66. For orders issued under those sections and affecting this Schedule, see foot-notes, ante, pp. 715, 721 and 788.
 The Chanduria Municipality was abolished by notification dated 24th April, 1896, published in the Calcutta Gazette, 1896, Pt. IB, p. 81.

ar year.]

(The Second Schedule.)

THE SECOND SCHEDULE.

(See sections 8 and 23.)

Municip (lilies in which the Chairman shall be appointed by the Local Government.

District.			Municipality.
Burdwan	•••	•••	Dainhat.
Hooghly	•••	•••	Uttarpara.
24-Parganas	•••	•••	(Suburbs of Calcutta.)
			Rep. by the Calcutta
			Municipal Consoti-
			dation Act, 1888
Ditto			(Ben. Act 2 of 1888).
Nadia	•••	•••	Baruipur.
Ditto	•••	•••	Santipur.
Ditto	•••	•••	Birnagar. Mahespur.
Murshidabad	•••	•••	Kandi.
Darjeeling		•••	Darjeeling.
• (,			zanjeoning.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

Chittagong

... Cox's Bazar.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

 $^{^1}$ Schedule II is referred to in sections 8, 28 and 66. For orders issued under those sections and affecting this Schedule, see foot-notes, ante, pp. 715, 722 and 73 $^{\circ}$.

(I'he Third Schadule.-Forms A, B.)

THE THIRD SCHEDULE

FORM A.—(See section 112.)

Notice to be published of the preparation of the List of Assessment on Persons.

Bengal Municipal Act, 1884.

(Section 112.)

MUNICIPALITY OF

Whereas an assessment list of the tax upon persons occupying holdings has been deposited in the office of the Commissioners as required by section 112 of the Bengal Municipal Act, Bon Act 8 of 1884. 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office hours on any day not being a close holiday, and that the several persons whose names are included in the said assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment, to be made on the first day of (), and every subsequent payment on or before the first day of (), the first day of () and the first day of () or in default thereof any arrear that may be due will be realized by distress and sale of the movable property belonging to the defaulter of which may be found on the holding in respect of which such defaulter is assessed, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,

Chairman of Commissioners.

FORM B.—: See section 112.)

Notice to be published of the preparation of the Valuation and Rating List of Holdings.

BENGAL MUNICIPAL AOT, 1884.

(Section 112.)

MUNICIPALITY OF

hereas a valuation and rating list of the rate on the hal value of holdings has been deposited in the office of the

of 1904.]

(The Third Schedule.-Form B.)

Commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office hours on any day not being a close holiday; and that the several owners of the holdings included therein are hereby required to pay the quarterly instalment set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of () and every subsequent payment on or before the first day of (), the first day of () and the first day of () and in default thereof any arrear that may be due will be realized by distress and sale of the movable property belonging to the defaulter, or which may be found on the holding in respect of which the valuation is made, and by such other proceedings as are allowed by law.

Dated this day of

A. B.,

Chairman of Commissioners.

(The Fourth Schedule .- Forms A, B.)

THE FOURTH SCHEDULE.

FORM A .- (See section 120.)

Notice of demand under section 120.

BENGAL MUNICIPAL ACT, 1884.

To

MUNICIPALITY OF

Take notice that the sum of Rs. , being the amount due from you as shown in the accompanying bill, is hereby demanded from you, and that if you do not within fifteen days pay the same to an officer authorized to receive payment, or into the office of the Municipal Commissioners, the amount together with costs will be levied by distress and sale of your goods and chattels, or otherwise as provided by law.

A. B.,

Chairman of Commissioners.

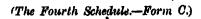
(The following note will be added at the foot of the above notice in those cases only in which the notice is to be addressed to a person who has not already paid one instalment of the tax at the rate at which the demand is made.)

Nors.—If you have any objection to make against this demand, you may, instead of paying the amount which is hereby domanded, present a petition to the Commissioners praying for a review of the amount assessed (or rated). Such petition must be presented within lifteen days of the service of this notice, otherwise it will not be received. If you present such petition, no amount will be levied from you until the Commissioners shall have passed an order on your petition; but after fifteen days from such order the amount due by you, with such costs as the Commissioners may direct, will be levied unless it has been previously paid.

FORM B .- (See section 121.)

TABLE OF FEES PAYABLE UPON DISTRAINTS UNDER THIS ACT.

Suma	distraine	d for.						Fe	e.
								Rs.	Α.
Unde	er 1 ru	pee				•••		0	4
1 and	d und	er 5	rupees			•••		0	8
ò	,•	10	,,	•••		•••		1	0
10	,,	15	79			`	•••	1	8
15	**	20	••	•••	٠.	•••	•••	2	Ü
20	,,	25	**				•••	2	8
25 30 35	"	, 30	,,	•••		•••	:	3	0
30	"	35	**	•••	•	***	•••	Х	8
3 5	94 .	40	"	•••		***	•••	4	U



THE FOURTH SCHEDULE-contd.

	FORM B-concld.					Rs. A.		
40	and under	45	rupees		•••		4	8
45	99	50	"	•••	•••		5	0
50	,,	60	"	•••	•••	•••	6	0
60	99	80	71	•••	•••	•••	7	ð
80	, ,,, ·	100	**	•••	•••	•••	10	Ņ
	Above	100					7//	ν

The above charge includes all expenses, including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man. If the amount demanded be paid or the warrant discharged before the sale is held so that no sale is necessary, one-fourth of the fees specified in the above table shall be remitted.

FORM C.—(See section 122.)

Distress Warrant.

BENGAL MUNICIPAL ACT, 1884.

(Section 122).

To (here insert the name of the officer charged with the execution of the warrant).

has not paid or of shown sufficient cause for the non-payment of the sum of rupees due for taxes (or rates) mentioned in the margin, although the said sum has been duly demanded in , and fifteen days have writing from the said clapsed since the service of the notice of demand; This is to require you to distrain the movable property of the said wherever it may be found within the municipality, except ploughs, plough-cattle, tools or implements of trade or agriculture, or any other movable property, subject to the same exceptions which may be found within the holding specified in the margin to the amount of the said sum of to defray and the further sum of the charges of taking, keeping and selling such property, and, if within ten days next after such distress the said sum of shall not be paid, to sell the said preperty, and having paid and deducted out of the proceeds of the sale the and the charges of taking, keeping said sum of and selling such property, to return the surplus (if any) on

Bon. Act. 2

(The Fourth Schedule.—Forms D, E.)

THE FOURTH SCHEDULE-contd.

FORM C-concld.

demand to the person whom you shall have found in possession of the said property, and, if no demand be made, to pay the same to the Commissioners. If distress cannot be made of sufficient property of the said, you are to certify the same to us in returning this warrant.

A. B.,

Chairman of Commissioners.

FORM D.—(See section 122.)

Form of Inventory and Notice.

BENGAL MUNICIPAL ACT, 1884.

(Section 122).

(State particulars of goods seized.)

Take notice that I have this day seized the property specified in the above inventory for the sum of due for the taxes (or rates) mentioned in the margin, and that unless you pay to me or into the office of the Commissioners of the said sum of and the further costs of this distraint as specified below, within ten days from the day of the date of this notice, the property will be sold.

(Signature of the officer executing the warrant of distress.)

Costs of distraint-

Date

FORM E.—(See section 124.)

Register of distraints of property and sales held on account of arrears for the month of in

- 1. Name of defaulter.
- 2. Number on register and specification of the holding on account of which the arrear is due.
- 3. Amount of arrear due.
- 4. Amount of costs and penalty.
- 5. Total amount to be realized.
- 6. Inventory of property seized under distress.

(The Fourth Schedule.)

THE FOURTH SCHEDULE-concld.

FORM E-concld.

- 7. Date of distress.
- 8. Date of sale,
- 9. Detail of articles sold.

- Amount realized on each article.
 Purchaser's name.
 Total amount realized.
 Amount paid into the Commissioners' office on account of the arrear due with date.
- 14. Amount paid into the Commissioners' office on account of costs and penalties.
- 15. Surplus proceeds of safe remaining after deducting the amount of arrears, costs. penalties due.
- 16. How the surplus was disposed of, with date of such disposal.
- 17. Balance of arrear still remaining unrealized, if any.18. On what date such remaining balance was realized or written off by authority.
- 19. Remarks (explaining why the property seized was released without sale if not eventually sold, etc., ctc.)

Lack was a

(The Fifth Schedule.)

THE FIFTH SCHEDULE.

(See sections 86 and 131.)

TAX ON CARRIAGES AND ANIMALS.

			er rter.
		Rs.	A,
For every 4-wheeled carriage drawn	by two		
horses For every 4-wheeled carriage drawn	by one	4	8
horse or a pair of ponies under 13 har	ıds	3	0
¹ [For every 4-wheeled carriage drawn	by one		
pony under 13 hands	•••	2	8]
For every 2-wheeled carriage		2	8
For every horse	•••	2	0
For every pony under 13 hands, and for	every		
mule and donkey		0	12
For every elephant	•••	6	0
For every camel	•••	2	0

Carriages the wheels of which do not exceed twenty-four inches in diameter are exempted.

¹ The portion printed in square brackets was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 99, in Vol. III of this Code.

(The Sixth Schedule.)

THE SIXTH SCHEDULE.

(See sections 2 and 4.)

Act of the Governor General in Council.

Number and year.	Subject.	Extent of repeal.		
21 of 1857	To make better provision for the order and good government of the station of Howrah.			
Acts of to	he Lieutenant-Governor of Beng Subject.	al in Council. Extent of repeal.		
5 of 1873	To provide for the levy of a lighting rate in Howran.	The whole Act.		
5 of 1876	To amend and consolidate the law relating to municipalities.	Ditto.		
6 of 1878	To provide for the cleansing and construct- tion of latrines in first class municipal-	Ditto.		

Ben Ant S

(Schedule A.)

SCHEDULE A.

RULES AS TO PRIVATE ROADS AND BRIDGES.

(See sections 2010, 201F and 351B.)

Part 1.-Roads.

- 1. (1) Every application for permission to construct, re-construct or alter a private road other than a foot-path must be accompanied by—
 - (a) a plan of the road, showing crosssections,
 - (b) type-drawings of all bridges to be provided or already provided for the road, and
 - (c) a description of the provision which it is intended to make or which already exists in respect of retaining-walls and revetments (if any) and drains age.
- (2) Every application for permission to construct, re-construct or alter a private footpath must be accompanied by a full description of the path.

2. (1) A private road must be so constructed as to have a slope inwards towards the hillside.

(2) Such slope must be not less than the gradient of the road,

3. (1) Whenever the Commiss oners so direct, the outer edge of a private road must be protected by retaining-walls, and the inner cutting by revetments.

(2) Such walls and revetments must be of such number and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule D.

4. A stone-lined drain must be provided on the inner side of a private road, where such side is not rock.

Part II.-Bridges.

5. Every application for permission to construct, re-construct or alter a private bridge must be accompanied by drawings of the bridge.

Applications for permission to construct, re-construct or alter a private road.

Slope.

weils and revetments

Drain.

Application for permission to construct, mornistruct alter a privat

** Schedules A to D were added, for the Darjeeling Municipality, by the Darjeeling Municipality, by the Darjeeling Municipality, 1980 (Bea. Act 1 of 1900), s. 23, in Vol. III of this Code.

(Schedules A, B.)

6. A private bridge must be constructed Waterway. so as to leave sufficient waterway to pass the maximum discharge of the channel spanned by the bridge.

7. The flooring placed in the bed of the slope of channel under a private bridge must, as far as flooring bridge. practicable, be laid at the same slope as that of the channel.

8. When a pocket for the deposit of debris Pocket is cut in the hillside above a private bridge, above bridge, otherwise than in solid rock, such pocket must be lined with masonry walling.

9. Where a small drain is crossed by a Substitution private road, a wooden or iron grating must, if of gratings the Commissioners so direct, be laid over the drain, instead of a covered culvert.

1 SCHEDULE B.

RULES AS TO PRIVATE DRAINS.

(See sections 224B, 229A and 351B.)

1. Drains for sullage water shall be con- construction structed with half or one-third glazed earthen- of drains for sullage water ware tile inverts and cement sides.

2. (1) Drains for surface water only may Construction be constructed either of dry rubble masonry surface water. or of any other material approved by the Comm ssioners, and may be either rectangular or U-shaped or V-shaped in section.

(2) Such drains shall not be connected with any drain carrying sullage water or sewage.

3. Except with the written permission of Drains to be the Commissioners, no covered drain shall be open. constructed, and no open drain shall be covered

4. The sectional area of every drain shall sectional be subject to the approval of the Commissiouers.

5. (1) Drains must discharge into the near- Discharge est water-channel or public drain, unless in any case the Commissioners otherwise direct.

1 See foot note 1 on page 876, ante.

This rule 1 in Sch. B. was substituted for the original rule 1 by Notification No. 896 T.—M., dated the 31st May, 1912, published in the Calcutta Gazette, 1912, Pt. 1 B., p. 97. The original rule

ons:—

Prains for sullage water must be constructed—

(a) with round or half-round tiles bedded in concrete, or

(b) with U-shaped stone mascorry set in lime mortar and plastered over the inner surface with

Portland cement, or

(c) with U-shaped stone concrete."

(2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.

(3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimize the risk of damage to the

public drain or road.

6. A masonry drain must be placed round every masonry or framed building or block of such buildings, and the site must be sloped from all sides towards such drain.

1 SCHEDULE C.

RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING WORK.

(See sections 238, 239, 240, 243, 244B, 244C, 244J, 244L, 244-O, 272E and 351B.)

Part 1.—Definitions.

- 1. In this Schedule, unless there is any thing repugnant in the subject or context,—
 - (a) the word "base," as applied to a wall, means the underside of the course immediately above the footings of the wall.
 - the wall;

 (b) "nogging" means lime or cement concrete, or brick-work in lime or cement mortar, which is filled in between the frames of iron or wood in a framed building;
 - (c) "party-wall" means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons; and

(d) "topmost storey" means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether constructed, used or adapted to be used for human habitation or not.

1 See font-note 1 on page 870, ante.

Drain round masonry or ramed building.

Definitions

2. (1) When any application is made for Cartificate b approval of a site for the erection, re-erection or to site. material alteration of a masonry or framed building, or when any application for permission to erect, re-erect or materially alter a hut involves the approval of a site, the Commissioners shall. refer the application to the Municipal Engineer, who shall certify-

- (a) whether, in his opinion, the site is reasonably secure from danger from hillside slips either from above or from below, or could be made secure as aforesaid by the addition of protective works, and
- (b) whether, in his opinion, if the site be built upon as proposed, the stability or security of any hillside or bank or any immovable property thereon would be threatened by the building, or could be ensured by the addition of protective works.
- (2) If the said Engineer certifies that the site is not secure as aforesaid, or that the stability or security of any hillside, bank or property would be threatened by the proposed building, or that the addition of protective works is necessary,

and if the Commissioners consider that the site ought nevertheless to be approved, or that the said protective works need not be added,

the Commissioners shall refer the matter to the Engineer appointed under section 351D, and shall deal with the application in accordance with his decision.

(3) If protective works have to be added as aforesaid to any site, the site shall not be approved until such works have been constructed and have received the written approval of the Commissioners.

Part III.—Buildings generally.

3. Every building erected or re-erected, Architecture. and every material alteration made to a building, must have such architectural features as to prevent the building being, in the opinion of the Commissioners, unsightly or unsuitable to its surroundings.

Shops.

Building in crowded localities.

Compensation to owner debarred from re-erecting a building.

Buildings of more than three storeys.

Level of floor.

Building over

Foundation.

Postings for

¹3A. No shop shall be erected or re-creeted in the vicinity of dwelling-houses, without the written sanction of the Commissioners.

¹**3B.** No building shall be erected or reerected in any locality which, in the opinion of the Commissioners, certified in writing, is so crowded with buildings as to be prejudictal to sanitation.

'3C. The Commissioners shall make full compensation to the owner for any damage which he may sustain in consequence of being debarred by rule 3A or rule 3B from reerecting a building.

4. (1) Except with the special sanction of the Commissioners, no building shall be erected or re-erected so as to have more than three storeys.

(2) When any such sanction is given, the materials and method of construction of the building must be such as may be prescribed by the Commissioners.

5. The floor or lowest floor of every building erected or re-erected from the ground level must be constructed at such level as will admit of—

(a) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some drain at the time existing or projected, and

(b) there being a ventilated air space of at least six inches in depth between the underside of the floor joists and the ground level.

6. A building shall not be placed over any drain, except with the written permission of the Commissioners.

Part IV.—Masonry buildings and framed buildings (enerally.

7. The foundation of a masonry or framed building must rest on solid ground or rock.

8. (1) The projection of the bottom of the footings on each side of each wall of a masonry

or framed building must be at least one-fourth of the thickness of the wall at its base.

(2) The height from the bottom of such footings to the base of each wall must be at least two-thirds of the thickness of the wall at its base.

(3) Except where the foundation is a rock, the bottom of such footings shall not be less than three feet below the ground level.

(4) When a wall is built on rock, footings may be omitted if the surface of the rock is properly cleaned and stepped to receive the first course of masonry.

9. The external and cross-walls of a masonry or framed building of one storey must be cross-walls of a one-storey built of-

- (a) stone or brick bedded in lime or cement
- (b) stone or brick bedded in mud mortar, or .
- (c) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked:

Provided that, when stone or brick bedded in mud mortar is used, those portions of the walls around doors and windows, and under the wall-plates for one foot in depth, and in the foundations up to plinth level, must be of stone or brick bedded in lime or cement mortar.

10. (1) The external and cross-walls of the External and lower storey of a masonry or framed building of a twoof two storeys must be built of-

storeyed building.

- (a) stone or brick bedded in lime or cement mortar, or
- (b) timber or iron framing filled in with nogging or covered with corrugated or plain iron:

Provided as follows:-

(i) if any of the said external walls do not support any masonry wall in the upper storey, they may be built of nogging instead of as prescribed in

clause (a); and
. (ii) if any of the said cross-walls are intended for partitions only and do not support any wall in the upper storey, they may be built of nogging or of timber framing planked with boards.

(Book West :

(Schedule C.)

(2) The external and cross-walls of the upper storey of a masonry or framed building of two storeys must be built of the materials specified in clause (a) or clause (c) of rule 9.

11. (1) The external and cross-walls of the lowest storey of a masonry or framed building of these stores must be built of

of three storeys must be built of--

- (a) stone bedded in lime or cement mortar, or
- (b) iron framing covered with corrugatediron or filled in with nogging;

and the external and cross-walls of the storey next above the lowest storey of such a building must be built of—

- (i) stone or brick bedded in lime or cement mortar, or
- (ii) timber or iron framing filled in with nogging or covered with corrugated-iron :

Provided that if any of the cross-walls in either of the said storeys are intended for partitions only, and do not support any wall in the storey above, they may be built of planked timber framing.

- (2) The external and cross-walls of the topmost storey of a masonry or framed building of three storeys must be built of—
 - (i) stone or brick bedded in lime or cement mortar, or
 - (ii) timber or iron framing, filled in with nogging, or covered with corrugated or plain iron, or planked.
- 12. The party-walls of a masonry or framed build ng must be built of stone or brick bedded in lime or cement mortar for their full height: and, if the Commissioners so direct, must be carried up, of a thickness of not less than nine inches, above the roof, flat or gutter to such a height as will give a distance of at

ast eighteen inches measured at right angles the slope of the roof above the highest part the roof, flat or gutter.

13. (1) Every wall of a masonry or framed idding must have a damp-proof course at or pove the level of the ground-floor.

(2) Such damp-proof course may consist of teet lead, asphalt, slates laid in cement, vitried bricks, or any other durable material apervious to moisture.

External and cross-walls of a threestoreyed building.

Party-walls.

Damp-proof

14. (1) The roof of every masonry or Roofs. framed building must be constructed of corrugated or plain iron, lead, slates or tiles:

Provided that, with the written permission of the Commissioners, any such roof may be constructed of shingles securely attached to a frame of iron or timber.

The rise of the roof shall not in any case be

less than one-eighth of the span.

15. The floors of every masonry or framed Floors. building must be constructed to bear safely the maximum load to be carried, such load being taken, in the case of planked floors, as not less than sixty pounds per square foot, including the weight of the floor.

16. (1) All beams and girders in a masonry Beams and or framed building must be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability.

(2) The bearing of a beam or girder on a. wall shall not, without the sanction of the Commissioners, be less than three-fourths of the thickness of the wall.

17. All iron posts, girders or joists or other Iron-work. iron work used for the support of any portion of a masonry or framed building must be of such quality and strength as are approved by the Commissioners.

Part V.--Dwelling-houses.

18. (1) Except with the written permission Free passage about dwelof the Commissioners, no dwelling-house or ing-house part thereof shall be creeted, re-erected or extended so that any external wall thereof is in any direction at a distance less than-

(a) twenty feet from any part of any adjacent building, or

(b) ten feet from the boundary of the holding on which the house stands, or

(c) four feet from the side of any public road, or

(d) three feet from the toe of any bank or retaining-wall.

(2) The said permission shall not be granted unless the Commissioners are satisfied that notice of the intention to apply for it has been given to the neighbouring proprietor or his agent, and shall not be refused except on sanitary or other public grounds.

(3) If the said permission be granted, the Commissioners shall send a copy thereof both to the applicant and to the said neighbouring proprietor.

19. Every person who erects or re-erects out-houses, or ranges or blocks of out-houses. whether the same are to be used as dwellings or stables or for any other purpose in connection with a dwelling-house, must build the same-

(a) so that they may stand in regular lines with a free passage or way in front of and between every two lines, of such width as the Commissioners may direct, for ventilation and for facilitating scavenging; and

(b) with such and so many privies, latrines or urinals, and such means of drainage, as the Commissioners may require: and

(c) at such level as will suffice for the means of drainage required by the Commis-

20. Every room in a dwelling-house—

- (a) must be so constructed that the whole of at least one side of the room either is an external wall or abuts on a verandah, or
- (b) must have suitable and sufficient skylights and roof ventilation.
- 21. Every room in a dwelling-house which is intended to be used as an inhabited room-
 - (a) must be in every part not less than eight feet in height from floor to ceiling or, in the case of a room in the roof, must have an average height of not less than seven feet from floor to ceiling;

(b) must have a clear superficial area of not less than eighty square feet; and

1(c) must be ventilated by means of at least one window or aperture, other than a door, opening directly into a verandah or into the open air and having

Ont-houses.

Ventilation of rooms of dwelling-

¹ This clause (c), in sule 21 in Sch. C, was substituted for the original clause (c), by Notification . 896 T.—M., dated the 51st May, 1912, published in the Calcutta Gazette, 1912, Pt. IB, p. 97. criginal clause ran thus:—

"(c) must be ventilated by means of doors or whidows which open directly into a verandah or the external air, and which have an aggregate opening, clear of the framing, equal to not less than one-tenth of the superficial area of the floor of the room."

an aggregate area not less than onetenth of the superficial area of the floor space of the room.

Part VI.—Applications for approval of sites for, and for permission to erect, re-erect or materially alter, masonry buildings or framed buildings.

22. (1) Every application for approval of Application a site for the erection or re-crection of a for approval of site for masonry or framed building must be written erection on a printed form (to be supplied by the material Commissioners free of charge), and must alteration of a state the position of the site, the number framed buildassigned to it in the valuation and rating ing. list, its dimensions, and such other particulars as may be prescribed by the Commissioners.

(2) The site-plan sent with such an application must be drawn to a scale of not less than one-fiftieth of an inch to a foot, must be sent in duplicate, and must show—

(a) the boundaries of the site;

- (b) the position of the site in relation to neighbouring roads, hillsides and banks :
- (c) the angle and the character of the hillsides or banks occupied by and abutting on the site;
- (d) whether the site is wooded or not;
- (e) what springs and jhoras (if any) there are on the site;
- (f) what excavations (if any) it is proposed to make on or near the site;
- (g) what protective works (if any) it is proposed to construct on, or for the support of, the site;
- (h) the name of the road (if any) in which the building is proposed to be situated;
- (j) the position of the building in relation to-
 - (i) the boundaries of the site, and
 - (ii) all adjacent roads, buildings and premises within a distance of forty feet of the site, or (iii) •(if there is no road within •a
 - distance of forty feet of the

site) some existing or projected road;

- (k) the means of access to the building from the road;
- (1) the position, form and dimensions of privies, urinals, drains, stables, cattle-sheds, cow-houses and other appurtenances of the building, and the inclination of such drains;

(m) free passage or way in front of the building;

 (n) space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes;

(o) the width and level of the road (if any) in front and of the road (if any) at the rear of the building; and

(p) such other particulars as may be prescribed by the Commissioners.

- (3) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a musonry or framed building in the manner indicated in clause (b) of section 238, in so far as the said subrules are capable of application to the intended alteration.
- 23. (1) Every appliction for permission to erect or re-erect a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the description of the building, its dimensions, and such other particulars as may be prescribed by the Commissioners.
- (2) The plan of the building and the elevations and sections accompanying such an application must be neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot, must be fully dimensioned, and must be sent in duplicate, and the said plan must show—
 - (a) the levels and width of the foundation of the building;
 - (b) the level of the lowest floor of the building; and
 - (c) the level of all open spaces in the building or premises and the plinth

Application to be sent and particulars furnished by person intending to erect, re-arect or materially alter a massoary or framed building.

level of buildings with reference to the level at the centre of the nearest road.

- (3) The specification accompanying such an application must comprise full information as to the following particulars, namely:—
 - the materials and method of construction to be used for external walls, party-walls, foundations, roofs, floors, fire-places and chimneys;

(ii) the manner in which roof and house drainage and the surface drainage of

land will be disposed of;

(iii) the manner, if any, in which it is proposed to pave the open spaces in the building or premises, and the slope to which the surface is to be made in each case;

(iv) the purpose for which it is intended to

use the building;

- (v) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort, the means of ingress and egress;
- (vi) such other particulars as may be prescribed by the Commissioners.

Explanation to clause (iv).—If it is intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated.

- (4) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building, in so far as they are capable of application to the intended alteration.
- 24. (1) The plans, elevations and sections signature of referred to in section 240 must be signed clearly plans, and in a prominent place by the owner of the sections building.

(2) If the said documents have been prepared by an Architect or an Engineer, they may be signed by him as well as by the owner.

25. (1) Within thirty days after the receipt for any application under section 288 or section into

Pour cognite during information.

240, the Commissioners may require the applicant to furnish them with any information which has not already been given in the documents received.

(2) If any information required under subrule (1) is, in the opinion of the Commissioners, incomplete or defective, they may, within thirty days after the receipt of the same, require further information to be furnished.

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within three months, the application received under section 238 or section 240, as the case may be, shall be deemed not to have been made.

26. (1) When the Commissioners have approved any site-plan or given permission to execute any work, any modifications which they may have directed to be made in such site-plan or in any of the approved plans of the work shall be entered on both copies of the plan, and the copies shall be signed on behalf of the Commissioners.

(2) One of the signed copies of each plan shall then be returned to the applicant, and the other shall be kept in the office of the Commissioners.

Part VII.—Huts.

27. Every hut abutting on a road or passage, whether public or private, must be constructed so as not to project over, or admit of water from, the roof falling upon or injuring the road or passage.

Part VIII.—Applications for permission to erect, re-erect or materially alter huts.

28. (1) Every application for permission to erect, re-erect or materially alter a hut must be written on a printed form (to be supplied by the Commissioners free of charge) and must contain a description of the site.

(2) If it is intended to use the but or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated in the said application.

28. (1) When any application under section 244 J has been received, the Commissioners may require the applicant to furnish them

Modification, signature and disposal of lands.

Prohibition of projection or dropping of water over road or passage.

Application for permission to erect, re-erect or materially alter a hut.

Power to require further information.

with any additional information which they

may consider it necessary to obtain.

(2) If any information required under subrule (1) is, in the opinion of the Commissioners. incomplete or defective, they may require further information to be furnished.

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under section 244 J shall be deemed not to have been made.

1 SCHEDULE D.

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFING AND SLOPING.

> (See sections 248 E and 351 B and Schedule A, rule 3.)

Part I.—Revetments, retaining-walls and toe-wals.

1. (1) The foundation of every revetment, Foundation retaining-wall or toe-wall must be taken down to original and firm soil or rock; and the bed-line must be cut at right angles with the face of the revetment or wall.

(2) The building of any revetment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.

2. (1) A revetment, retaining-wall or toe- Materials. wall may be made of dry rubble masonry, but must, in any case in which the Commissioners so direct, be made of lime masonry.

(2) No stone used shall be of greater height

than its length or breadth.

3. All stones used must be laid on their Laying of natural beds, and must be arranged so as to

break joint as far as may be possible.

4. (1) One through bonding-stone or line Bonding. of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bondingstones of the course below.

Ben. Act 3 of 1004.]

(Schedut D.)

(2) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.

5. Every revetment, retaining-wall or toe-wall must be built up solid to full section; and spawls or chips shall not be used for filling the courses unless their use is unavoidable.

6. Weep-holes must be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground level.

7. (1) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings:

Provided that the width at the top shall in no case be less than one foot six inches and need not in any case exceed three feet six inches

(2) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is surcharged, sub-rule (1) shall apply, the height being assumed, for the purposes of that sub-rule, to be one and-a-half times the vertical height.

(3) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

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8. When, in pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°.

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Weep-holes.

Section

Angle.

BENGAL ACT 1 OF 1885

(THE BENGAL FERRIES ACT, 1885).

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BENGAL ACT 1 OF 1885.

· (THE BENGAL FERRIES ACT, 1885).1

(27th May, 1885.)

An Act to regulate Ferries in Bengal.

Whereas it is expedient to regulate ferries within the Presable. territories subject to the Lieutenant-Governor of Bengal'; It is enacted as follows:-

Preliminary.

This Act may be called the Bengal Ferries Act, 1885.

2. It shall extend to all the territories subject to the Extent and Lieutenant-Governor of Bengal:2

commence-ment of Act.

Short title.

[And it shall come into force on such date as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf].

3. Regulation 6 of 1819 and Bengal Act 1 of 1866 are Regulation hereby repealed; but all determinations, declarations, orders Bon. Act 1 and rules made, engagements entered into and securities taken of 1866 under such Regulation and Act shall be deemed to be re-· spectively made, entered into and taken under this Act.

4. Nothing in this Act contained shall apply to any ferry Act not to deemed or declared to be a municipal ferry under the provisions

of the Bengal Municipal Act, 1884. 5. In this Act, unless there be something repugnant in the Interpreta-

subject or context,—
"Commissioner" means the Commissioner of a Division:

"ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a land-

ing stage:
"notification' means a notification published in the "Notification." Calcutta Gazette:

"priviate ferries" includes all ferries other than those "Private declared to be public ferries, or established as such, under ferries. section 6 of this Act.

" Commission-

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1885, Pt.

IV, p. 39; and for Proceedings in Council, see ibid, Supplement, pp. 546, 558, 657 and 678.

LOCAL EXERT.—This Act extends to the whole of the former Province of Bengal—see s. 2, but its application is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

This includes the present Presidency of Fort William in Bengal and other territory.

The Act came into force on the 1st August, 1885—see Calcutta Gazette, 24th June 1886, Pt. I,

⁴ As to ferries in municipalities, see ss. 148 to 156 of the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), sate, pp. 762 to 764.

Bee. 400 1

(Part I.-Public Ferries.-Secs. 6-9.)

PART I.

PUBLIC FERRIES.

Power to declare, establish, define and discontinue public ferries

- 6. It shall be lawful for the Lieuteneut-Governor from time to time to time to time
 - (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

 (b) take possession of a private ferry and declare it to be a public ferry;

 (c) establish new public ferries where, in his opinion, they are needed;

(d) define the limits of any public ferry;

(e) change the course of any public ferry; and

(f) discontinue any public ferry which he deems unnecessary.

Every such declaration, establishment, definition, change

or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

Control of public ferries vested in the Magistrate of the district. Superintendence of

public ferries.

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the Lieutenant-Governor may, from time to time, either by name or by official designation, appoint.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the

authorized tolls leviable thereat.

Ferry tolls may be leased by anotion. 9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest

¹ Mow the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa at 2 Assam Laws Act, 1938 (7 of 1919), s. 8, and Sch. D, Itema 1 and 8, in Vol. 1 of this Code.

8 The lists of orders made under section 6, clauses (a) to (7); for Bengal as constituted on the
Sist March 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Public Ferries.—Secs. 10-14.)

bidder, and may accept any other bid, or may withdraw the tolls from auction.

The lessee of the tolls of every ferry which have been execution of under this section shall execute a contract catting fouth toursely leased under this section shall execute a contract setting forth losses. the conditions on which the tolls of such ferry are to be held,

and shall give security for its due fullfilment.

10. When the tolls of a public ferry have been duly leased, tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be public ferry legally bound to conform to the rules made under this Act for and his servant bound to conform to the ferry.

11. On the requisition of the Magistrate of the district the Provision for person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience : and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

12. All arrears due by the lessee of the tolls of a public Recovery of ferry on account of his lease;

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction;

all sums due from the lessee on the surrender of his lease under section 14.

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act 7 of 1880 or any other Act at the time being in force for the recovery of public -demands.

13. The lease of the tolls of any public ferry shall be liable Power to be cancelled at once by the Magistrate of the district in cancel lease. which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

14. The lessee of the tolls of a public ferry may surrender Surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

¹See now the Bengal Public Demands Recovery Act, 1913 (Ben. Act. 3 of 1913), printed in Vol. III of this Code.

(Part I.-Public Ferries.-Sec. 18.)

nake rules

- The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules 1 consistent with this Act, --
 - (a) for the management of all public ferries within such district, and for regulating the traffic at such forries;

(b) for regulating the time and manner at and in which the terms in which, and the person by whom, the tolls of such ferries may be leased by auction;

- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and
- (d) generally, to carry out the purposes of this Act:

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act,-

- (e) for collecting the rents payable for the tolls of such ferries :
- (f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries;
- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and

(h) in cases in which the traffic is conveyed in boats, for regulating-

the number and kinds of such boats and their dimensions and equipment;

the number of the crew to be kept by the lessee

for each boat;

the maintenance of such boats in good condition; the hours during which, and the intervals within which, the lessee shall be bound to ply; and

the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

^{*} For a list of rules made under section 15 for Rengal as constituted on the Sist Murch, 1912, see

1005.1

(Part I.—Public Ferries.—Secs. 16-18.)

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor 1 directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magis- Private ferry within a distance of two miles from the limits of a public miles from the limits of a public without an

Provided that, in the case of any specified public ferry, the Lieutenant-Governor may, by notification, reduce or increase the said distance of two miles to such extent as he thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

17. Claims for compensation for any loss sustained by any Claims for person in consequence of a private ferry being taken possession and what of, or a new public ferry, or subsidiary ferry, being established smount to be under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

18. Tolls, according to such rates as may, from time to Tolla. time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the Lieutenant-Governor may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1913 (7 of 1912), s. 5, and Boh. D, items 1 and 2, in Vol. 1 of this Code.

3 For a list of orders made under this proviso to section 6 for Bengal as constituted on the Sist March, 1912, Vol. 1, Pt. VI.

3 So much of section 18 as provides for the exemption from payment of toils of any persons, animals, vehicles or other things which are exampted by sections 8 of the Indian Toils (Army) Ada, 1901 (2 of 1901), is repealed by a 8 of that Act. For further exemptions from talls, see sections 8 and 4 of the said Act, in General Acts, 1894-1908, Ed. 1909, p. 508,

(Part I.-Public Ferries.-Part II.-Private Ferries.-Part 1II.—Penalties and Criminal Procedure.—Secs. 19-23.)

in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of tolls.

19. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry:

List of tolls.

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how to be appro-priated.

20. Except as provided by section 35, all tolls, rents and compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor may from time to time direct.

Compounding for tolls.

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II.

PRIVATE FERRIES.

make rules in regard to private terries.

22. The Commissioner may from time to time make rules? consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor I directs, and shall thereupon have the force of law.

PART III.

PENALTIES AND CRIMINAL PROCEDURE.

23. Every lessee or other person authorized to collect the tolis of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19.

I Sew the Governor, in Council of Fort William in Bengal, see the Bengal, Bihar and Orissa and Dulan Lampedot, 1913 (7 of 1913), a. 5, and Soh. D. Items 1 and 2, in Vol. I of this Code.

A For a list of rules made univer section 25 for Bengal as constituted on the Sist March, 1912, see
the Bengal Local Sizensory Rules and Orders, 1912, Vol. I, Pt. VE.

(Part III.—Penalties and Criminal Procedure.—Secs. 94-98.)

or who wilfully removes, alters or defaces such table, or allows it to became illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees.

24. Every such lessee or other person as aforesaid asking Penalty for or taking more than the lawful toll, or without due cause taking unitorised delaying any person, animal, vehicle or other thing, shall be tolla, and to punished with fine which may extend to one hundred rupees.

25. Every person breaking any rule made under section 15 Ponalty for or section 22 shall be punished with imprisonment for a term breach of rules made which may extend to three months, or with fine which may under sections to the may under section extend to two hundred rupees, or with both.

26. When any lessee of the tolls of a public ferry makes Cancelment default in the payment of the rent payable in respect of such default or tolls, or has been convicted of an offence under section 25, or, breach having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

27. Every person crossing by any public farry who

Every person crossing by any public ferry who refuses Penalties on

to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll,

who obstructs any toll-collector, or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty

rupees. 28. Whoever conveys for hire any passenger, animal, Penalty for vehicle or other thing in contravention of the provisions of plan pass section 16 shall be punished with fine which may extend to fifty rupees.

[Ben. Act 1

(Part III.—Penalties and Criminal Procedure.—Part IV.— Miscellaneous.—Secs. 29-33.)

Fines payable to lessee. 29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may, notwithstanding anything contained in section 20, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber. 30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

Power to arget without warrant.

Magistrate may assess damage done by offender.

- 31. The police may arrest without warrant any person committing an offence against section 27 or section 30.
- 32. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

Power to take possession of boats and other appliances on sarrender or cancellation of lease. 33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, antil he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances:

· Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to of 1885.]

(Part IV.—Miscellaneous.—Secs. 34-36.)

the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

When any boats or their equipments, or any materials Similar power or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor may in each case direct) until such transport is completed.

35. It shall be lawful for the Lieutenant-Governor to Management orders that any public ferry situated in any district in which a in District district board has been established under the provisions of the Board. Bengal Local Self-Government Act of 1885 shall be managed by such District Board; and such District Board shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Lieutenant-Governor may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, and compensation received, under this Act in respect thereof, be paid into the District Fund.

And thereupon such ferry shall be managed, and such proceeds, fines and compensation shall be paid, accordingly.

The Lieutenant-Governor may from time to time vary or

annul any order made under this section.

36. The Lieutenant-Governor may, from time to time, Delegation of delegate, under such restrictions as he thinks fit, any of the powers. powers conferred on him by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as he thinks fit, by name or by official designation.

¹ Now the Governor in Council of Fort William in Bengal -see the Bengal, Bihar and Orisas and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

8 For a list of orders made under s. 85 for Bengal as constituted on the 81st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

8 Printed post, page 907.

4 As to the crediting to the District Fund of receipts from public forries, see also s. 52 (4) of the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885), post, p. 927.

8 For a list of orders made under s. 86 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885).

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BENGAL ACT 3 of 1885

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885).1

(22nd July, 1885.)

An Act to extend the system of local self-government in Bongal.

WHEREAS it is expedient to extend the system of local self- Preamble. government within the territories subject to the Government of the Lieutenant-Governor of Bengal'; It is enacted as follows :--

Preliminary.

1. This Act may be called the Bengal Local Self-Govern- Short title. ment Act of 1885.

It shall extend to all the territories subject to the Lieutenant- Extent. Governor of Bengal 2 which are not included within the limits of the town of Calcutta, * * * * or of any place or town to which the provisions of the Bengal Municipal Act, 1884, have been, or may hereafter be extended:

And it shall come into force in any district on such date Commence as the Lieutenant-Governor may, by notification, direct.

[Any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act after it

1 LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1863, Part IV, p. 99; for Preliminary Report of Select Committee, see ibid, 1884, Part IV, p. 16; far further Heport of Select Committee, see ibid, 1885, Part IV, p. 16; and for Proceedings in Coancil, see ibid, 1885, Supplement, pp. 90, 260, 365, 401 and 529; ibid, 1884, Supplement, pp. 262 and 560; ibid, 1885, Supplement, pp. 594, 588 and 583.

LOCAL EXPENT.—As to the local extent of this Act, see s. 1 and foot-notes thereto. The Act is in force-shroughout the present Presidency of Fort William in Bengal, except—

(1) the town of Calcutta,
(2) provincial municipalities,
(3) the district of Darjeeling, and
(4) the Chittagong Hill-tracts.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts.

The application of the Act is barred in the Chittagong Hill-tracts hy the Chittagong Hill-tracts.

The spillation, 1800 (1 of 1800), s. 4 (2), in Vol. I of this Code.

LOCAL REPRAL.—As to the repeal of Ben. Act 3 of 1885 (or portions thereof) in areas in the neighbourhood of the Calcutta Municipality, on the extension thereto of the Calcutta Improvement Act, 1911 (or portions thereof), see s. 147 (2) of the latter Act, in Vol. III of this Code.

The words "or of the districts of Singbhum, the Southal Parganss or the Chittagong Hill-tracts," in section I, were repealed, in Western Bengal by the Bengal, Local Belf-Government (Annex), 1908 (Ben. Act 5 of 1908), s. 2, and are omitted. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I. The reference to the Chittagong Hill-tracts was repealed as having been superseded by the Chittagong Hill-tracts Begulation, 1900 (1 of 1900), s. 4, in Vol. I, of this Code.

4 Frinted, ante, page 709.

5 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriass and Assam Laws Act, 1912 (7 of 1912), s. 3, and Schedule D, items I and 2, in Vol. I of this Local Statutory Rules and Orders, 191

(Preliminary.—Secs. 2-5.)

shall have received the assent of the Governor General, and shall take effect in any district on this Act coming into force therein.]

Enactments repealed and amended.

Office held under repealed provisions of Bengal Act 9 of 1880 to

continue in existence until its abolition or confirmation

by District Board. 2. On this Act coming into force in any district, the enactments specified in the first and second Schedules shall, as regards such district, be repealed to the extent mentioned in the third column of the first Schedule, and be amended to the extent mentioned in the third column of the second Schedule.

But this repeal shall not revive any office, authority or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this Act.

3. Every person holding office in any district under the repealed provisions of the Cess Act, 1880, shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the District Board established in such district under the provisions of this Act:

Provided that, if for a period of twelve months from the date on which this Act comes into force in any district, the District Board does not abolish such office or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this Act:

Provided, further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation, pension or gratuity shall be paid from the District Fund to any person not being a servant of the Government who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880¹; or, if no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation, pensions and gratuities to uncovenanted servants of the Government.

1880

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment without the sanction of the Governor General in Council, previously obtained.

Act not to come into force in cantonments without sanction of Governor General in Council.

Interpreta-

"Commissioner."
"Local authority."

- 5. In this Act, unless there be something repugnant in the subject or context,—
 - "Commissioner" means the Commissioner of a Division:
- "local authority" means any District Board or Local Board, Joint Committee, Union Committee or Joint Union Committee constituted under this Act:

1 Printed onts, page 529.

cation:

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Bodies.—Sec. 6.)

"municipal authority" means the commissioners of a "Municipal municipality constituted under the provisions of the Bengal authority Municipal Aet, 18841:

"notification" means a notification published in the "Notifica-Calcutta Gazette:

"Magistrate of the district" includes any Magistrate subor- "Magistrate dinate to the Magistrate of the district, to whom he may district." delegate all or any of his powers under this Act:

the term "salaried servant of Government" does not include "Salaried servant of a retired servant of Government in receipt of a pension:

"financial year" means the year commencing on the first "Financial day of April:

"cess year" means the year as fixed by the Lieutenant- "Cons year." Ben. Act 9 of 1880. Governor² under the Cess Act of 1880.³

"sanitation" includes water-supply.

servant of Governmen

" Sanitation."

Boards and

Local Boards.

PART I.—Local Authorities.

CHAPTER I.

DISTRICT BOARDS AND LOCAL BOARDS.

Constitution of District Boards and Local Boards.

6. The Lieutenant-Governor shall, by notification, establish District

a District Board for every district. The Lieutenant-Governor may, by notification, establish a Local Board in any subdivision or in any two or more subdivisions combined, and may cancel or vary any such notifi-

Provided that a Local Board shall be established in every subdivision of every district mentioned in the third Schedule of this Act

¹ Printed ante, page 709.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 8, and Beh. D, items 1 and 2, in Vol. I of this Code.

² Printed, ante, page 529.

³ This definition "sanitation " was added, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁵ For lists of notifications issued under paragraph 2 of s. 6 for Bengal as constituted on the 81st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VII.

⁶ The words "and in any other sub-division to which the provisions obstite next succeeding Chapter shall have been extended." were sepseled in Western Bengal, by the Bengal Local field: Chapter shall have been extended." were sepseled in Western Bengal, by the Bengal Local field: Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2, and are omitted. That Act, was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards.—Secs. 7, 8.)

A District Board shall have authority, for the purposes of this Act, over the district for which it is established, and a Local Board shall have authority over such subdivision or subdivisions as the Lieutenant-Governor1 may, by notification,

Constitution of District Boards.

7. A District Board shall consist of such number of members, not being less than nine, as the Lieutenant-Governor1 may, by notification,2 fix in this behalf, and may include elected and appointed members:

Provided that, if there be no Local Board within a district, the whole of the District Board shall consist of appointed members.

When a Local Board has been established in any district, such Local Board shall be entitled to elect such proportion of the whole of the District Board as the Lieutenant-Governor1 shall from time to time direct:3

Provided that, when Local Boards have been established throughout the whole area of any district, not less than onehalf of the whole District Board (exclusive of the Chairman, if appointed under section 22, '[section 23 A or section 29,]) shall be elected by such Local Boards:

Provided also that no person shall be elected a member of the District Board unless he be qualified for election as a member of some Local Board in the district under the provisions of section 13 of this Act.

The appointed members (if any) shall be such persons and officials as the '[Commissioner] shall from time to time, either by name or by official designation, appoint:6

Provided that not more than one-half of the appointed

members shall be salaried servants of the Government.

Constitution

8. A Local Board shall consist of such number of members. not being less than six, as the Lieutenant-Governor may by notification' flx in this behalf.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act. 1912 (7 of 1912), s. 3, and Soh. D, items 1 and 2, in Vol. I of this Code.

§ For a list of notifications issued under paragraph 1 of s. 7 for Bengal as constituted on the list March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ For a list of notifications issued under paragraph 2 of s. 7 for Bengal as constituted on the list March, 1913, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ The words and figures in square brackets were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1906), s. 4 (7), in Vol. III of this lode. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, 8ch. I.

§ This word "Commissioner" in s. 7 was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (8), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, 8ch. I.

§ For a list of a gift-pappointments made under paragraph 3 of s. 7 for Bengal as constituted on the Sist March, 1812, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

§ For a list of notifications issued under section 8 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 100L.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards.—Secs. 9, 10.)

Two-thirds of the members of each Local Board established in a district mentioned in the third Schedule of this Act shall be elected under such rules, consistent with this Act, as for qualithe Lieutenant-Governor may make for each Local Board in persons respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and election elections. mode of election:

Provided that every male person of the full age of twentyone years resident within the area under the authority of a Local Board who is qualified in one of the manners following, that is to say:-

(1) is a member of a Union Committee within such Qualification area:

- (2) has during the year immediately preceding such election-
 - (a) paid a sum of not less than one rupee on account of road-cess in respect of lands situated either wholly or in part within such area;

*; Ol'

- (c) been possessed of a clear annual income from any source of not less than two hundred and forty rupees;
- (3) been a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any University, or holds a certificate as a pleader or mukhtar;

shall be entitled to vote at an election of members of such Local Board.

*10. If. within the time prescribed by rules made by the Power to Lieutenant-Governor under this Act, the prescribed proportion of elected members of any District Board or Local Board District is not duly elected, the Commissioner may appoint members to make up that proportion.

¹ Now the Governor in Council of Fort William in Bengal —see the Bengal, Bihar and Orista and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, items 1 and 2, in Vol. I of this Code.

* The letter and words "(b) paid license tax in respect of a trade, dealing or industry carried on within such area" in the provise to s. 9, were repeated by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and are omitted.

* This section 10 was substituted for the orl rimal section 10 for Western Bengal, by the Bengal Local Bell-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 5, in Vol. III of this Code.

That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

Sch. I.

4 Now the Governor in Council of Fort William in Bengal- see the Bengal, Bihar and and Assam Laws Act, 1912 (7 of 1912), s. 8, Sch. D, item 1, in Vol. I of this Code.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 11-13.)

Appointment of members of Local Boards by Commissioner to take effect on result of election.

Proportionate number of members how to be ascerwhole number is not evenly divisible by two or by

Qualification for election as members of Local Boards estab-lished in districts men-tioned in Schedule.

11. One-third of the members of each Local Board established in a district mentioned in the third Schedule of this Act shall be appointed by the [Commissioner] immediately after the result of the election mentioned in section 9 shall have been notified to him, and such appointment shall be deemed to have been made on the date on which such election takes place.

12. In cases where the whole number of members is not evenly divisible by two or by three, the one-half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

13. The Lieutenant-Governor shall make rules, consistent with this Act, defining the qualifications of candidates for election as members of each Local Board established in a district mentioned in the third Schedule of this Act:

Provided that every male person of the full age of twentyone years who is qualified in one of the manners following, that is to say:-

(1) is a member of a Union Committee within the area under the authority of such Local Board.

(2) has, during the year immediately preceding such election, had his fixed place of abode within I the subdivision for which Local Board has been established]; and

(a) paid a sum of not less than five rupees on account of road-cess in respect of land situated, either wholly or in part, within the area under the authority of such Local Board;

(c) been possessed of a clear annual income from any source of not less than one thousand rupees:

(3) being a member of a joint undivided family, one of the members of which is qualified for election under clause (1) or clause (2) (a) or (b) of this proviso, is a

¹ For a list of ex officio appointments made under s. 11 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI.

1 This word "Commissioner" in s. 11, was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), a. 4 (2), in Vol. III of this Code. That Act was extended to Kastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. II.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. 1 of this Code.

These words in square brackets in s. 18 were substituted for the words "the area under the authority of such Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1998 (Ben. Act 5 of 1908), s. 6, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. I.

The lattice and words "t) peaks a license-tax of note, less than twenty rupose in respect of a trade-leading see indeatry carried on within the area under the authority of such Local Beard" were repeaked by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and are emitted.

(Part I.—Local authorities.—Chapter I.—District Boards and Local Boards .- Secs. 14-17.)

graduate or licentiate of any university, or holds a certificate as a pleader or mukhtar;

shall be deemed to be qualified for election as a member of such Local Board.

such Local Board.

14. It shall be lawful for the Lieutenant-Governor, by Lieutenant notification from time to time, to add the name of any district Governor may add names of districts. to the list included in the third Schedule of this Act.

From and after the date of such notification such district included, to shall, for the purposes of this Act, be deemed to be a district

mentioned in such Schedule.

mentioned in such schedule.

15. The members of a Local Board, established in a Constitution of Local district not mentioned in the third Schedule of this Act, Boards in shall be appointed by the [Commissioner], either by name districts not mentioned in or by official designation:

Provided that not more than one-half of the whole number

shall be salaried servants of the Government:

Provided, further, that the Lieutenant-Governor may, at any time in regard to any Local Board, direct that two-thirds of the members of such Local Board shall be elected under the provisions of sections 9, 10 and 13, and that one-third shall be appointed under the provisions of section 11.

16. (Term of office of members of District Board and Local Board). Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), 8. 2. That Act was extended to Eastern Bengal by the Bengal

Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

17. A member of a District Board or Local Board may Resignation of members. resign by notifying in writing his intention to do so, in the case of a member of a District Board, to the [Commissioner], and in the case of a member of a Local Board to the '[District Board], and, on such resignation being accepted by the [Commissioner] or '[District Board], respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Bch. D, items 1 and 2, in Vol. 1 of this Code.

2 For a notification issued under section 14 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

3 For a list of ex officio appointments made under section 15 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

4 This word "Commissioner" was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 5 of 1914), s. 3, Sch. I.

3 This word "Commissioner" was substituted for the words "Lieutenant-Governor", for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 7, in Vol. III of this Code. That Act was extended to Eastern Bergal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

3 These words "District Board" were substituted for the word "Commissioner," for Western Bengal, by the Bengal Local Belf-Government, Amendment) Act, 1908 (Bez. Act 5 of 1908) s. 7, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, Sch. I.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards.—Secs. 18-19.)

Powers of Commissioner

- 18. 1(1) The 2[Commissioner] may remove any member of a District Board, [Local Board or Union Committee]-
 - (a) if he refuses to act, or becomes incapable of acting, or is declared insolvent, '
 - (b) if he has been declared by notification to be disqualified for employment in the public service;
 - (c) if he, without an excuse sufficient in the opinion of the ²[Commissioner], absents himself from six consecutive meetings of the Board;
 - (d) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the ²[Commissioner], undesirable.

⁵(2) Any member who is removed under sub-section (1) may appeal to the Lieutenant-Governor whose decision shall be final. 18A. The Lieutenant-Governor may remove any member of a District Board, Local Board or Union Committee who is convicted of any such offence, or is subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him to be a member.

*19. (1) When the place of an elected member of a District Board or Local Board becomes vacant by his resignation, removal or death, a new member shall be elected, in accord. ance with the rules made by the Lieutenant-Governor under this Act, to fill the place:

Provided that if, within the time prescribed by such rules, no new member is duly elected, the Commissioner may appoint a new member to fill the place.

¹ This portion of s. 18 was re-numbered s. 18, sub-section (1), for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914),

This portion of s. 18 was re-numbered s. 18, sub-section (1), for Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1998 (Ben. Act 5 of 1908), a. 8 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Sch. I.

"This word "Commissioner" was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), a. 8 (2) (i), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 3, Sch. I.

"These words "Local Board or Union Committee" were substituted for the words "or Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (2) (ii), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

"The words or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfit him to be a member" were repealed, in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1968 (Ben. Act 5 of 1908), s. 8 (2) (iii), and are omitted. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1968 (Ben. Act 5 of 1908), s. 8 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 9, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 9, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1

Power of Lientenant-Governor to after proceedings in Criminal Court. Filling of casual vacancies.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards. - Secs. 19A-21.)

(2) When the place of an appointed member of a District Board or Local Board becomes vacant as aforesaid, the Commissioner may appoint a new member to fill the

(3) No act of any District Board or Local Board, or of its officers, shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed

number.

*19A. (1) A member of a District Board or Local Board who has been appointed by official designation shall, subject District E to sections 17, 18 and 18 A of this Act, and unless the Board Lientenant-Governor otherwise directs, continue to be a member of the Board while he continues to hold the office to which such designation refers.

- (2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, subject as aforesaid, hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.
- (3) In cases not provided for by sub-section (1) or subsection (2) of this section, the term of office of a member of a District Board or Local Board shall be fixed by the Lieutenant-Governor 3 by rules, which may provide for the retirement of members by rotation.

(4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or re-

appointed.

20. Every District Board shall be a body corporate by the Incorporation of District name of "the District Board of (name of District)," and shall Boards. have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to any rules made by the Lieutenant-Governor under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate

21. The several District Boards and Local Boards constituted under this Act shall come into existence at such time as the Lieutenant-Governor' may by notification fix in this

¹ For a list of ex officio appointments under section 19 (2) for Bengal, see the Bengal Local Staintory Rules and Orders, 1912, Vol. 1, Pt. VI.

8 See footnote * on p. 914, ante.
8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.
4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 3, in VolFi of this Code.

8 For a list of notifications issued under section 21 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards. -- Secs. 22-25.)

Chairman and Vice-Chairman.

District Board.

22. Every District Board shall be presided over by a Chairman, who shall be appointed by the Lieutenant-Governor, 1 or, should the Lieutenant-Governor 1 in any case so direct, be elected, ²[either by name or by virtue of his office,] by the members of such Board from among their own number, subject to his approval.

Vice-Chairman of District Board.

23. Every District Board shall from time to time elect one of its members to be Vice-Chairman.

Appointment of Chairman or Vice-Chairman of on failure to

³23A. If any District Board fails to elect a Chairman or Vice Chairman within the time prescribed by rules made by the Lieutenant-Governor under this Act, the Lieutenant-Governor may appoint a Chairman or Vice-Chairman, as the case may be.

24. (Term of office of Chairman and Vice-Chairman of District Board). Rep. by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908) 8. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

Chairman of Local Board.

25. Every Local Board shall be presided over by a Chairman, who shall be elected " [either by name or by virtue of his office], by the members from among their own number, subject to approval by the '[Commissioner]; or the Local Board may, at a meeting attended by not less than two-thirds of its members, request the '[Commissioner] to appoint a Chairman.

. If the Local Board fails to elect such Chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by the Lieutenant-Governor¹ under this Act, or within such extended time as the

¹ Now the Governor in Conneil of Fort William in Bongal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s 8,80h. D, items 1 and 2, in Vol. I of this Code.

2 These words in square brackets in a 22 were inserted, for Western Bengal, by the Bengal Local Self-Government, (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 11, in Vol. III of this Code.
That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914),

Self-Government (Amendment) Act, 1806 (Self-Government (Amendment) Act, 1806 (Self-Government (Amendment) Act, 1806 (I. 3 Section 28 A was inserted, for Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 12, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 16 1914), s. 3 Sch. I. 4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Soh. D, item 1, in Vol. I of this Code.

§ For a list of officials elected ac officio under section 25 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1913, Vol. 1, Pt. VI.

§ These words "cither by name or by virtue of his office," in s. 25, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (cs.), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal), by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal), by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal), by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal), by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (19 Mestern Bengal Local Self-Governmen

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 26-28.)

¹[Commissioner] may in his discretion allow for such election the [Commissioner] shall appoint such Chairman.

*26. (1) Every Local Board shall from time to time. Vice-Chairwithin a period prescribed by rules made by the Lieutenant Board. Governor under this Act, elect one of its members to be Vice-Chairman.

(2) If any Local Board fails to elect a Vice-Chairman within such period, the Commissioner may appoint a Vice-Chairman.

26A. A District Board or Local Board may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year.

trict or Local

27. A Chairman of a District Board or Local Board may Resignation resign by notifying in writing his intention to do so [in the and Vicecase of a Chairman of a District Board to the Lieutenant- Chairman Governor, and in the case of a Chairman of a Local Board, to Board the Commissioner; and, on such resignation being accepted Local Board. by the Lieutenant-Governor or Commissioner, as the case may be,] shall be deemed to have vacated his office.

A Vice-Chairman of a District Board or Local Board may resign by notifying in writing his intention to do so to the Board; and, on such resignation being accepted, shall be

deemed to have vacated his office.

28. The Lieutenant-Governor may remove any Chairman Chairman of a District Board or Local Board from his office if he refuses to set or becomes incorpolate of acting or is declared incolvent. to act, or becomes incapable of acting, or is declared insolvent, District Bo or is convicted of any such offence, or subjected by a Criminal or Local Board. Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him Chairman, or, on the application of the Board, if he persistently neglects his duty as Chairman.

Boh. J.

6 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items I and 2, to Vol. I of this Code.

¹ This word "Commissioner," in s. 25, was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 13 (b), in Vol. 111 of this Coie. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

3 The last paragraph of s. 25 was repeated in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2, and is omitted. The Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

5 These sections 23 and 26A were substituted for the original section 26, for Western Bengal, by the Bengal Local Self-Government (Amendmens) Act, 1908 (Ben. Act 5 of 1908), s. 14, in Vol. III of this Code. That Act was oxtended to Eastern Bengal by the Bengal Local Self-Government (Amendmens) acts of 1908, s. 14, in Vol. III of this Code.

Act. 1 of 1914), s. 3, Sch. I.

4 Now the Governor in Council of Fort William in Bengal—set the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sob. D, item 1, in Vol. I of this Code.

5 These words in square brackets in s. 27 were substituted for the words "to the Lieutenant-Governor, and on such resignation being accepted", for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 15, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 15, in Vol. III of this Code.

(Part I.- Local Authorities.-Chapter I.-District Boards and Local Boards.—Secs. 29, 29A.)

A District Board or Local Board may remove its Vice-Chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of my such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Board, formed after due inquiry, unfits him to be a Vice-Chairman, or if he persistently neglects his duty as Vice-Chairman.

office of

- ¹29. (1) If a Chairman of a District Board dies, resigns, is removed, or avails himself of leave granted under section 26 A, the Lieutenant-Governor' may appoint a new Chairman, or may direct that, within a period prescribed by rules made by the Lieutenant-Governor' under this Act, a new Chairman be elected by the members of the Board from among their own number, subject to his approval.
- (2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed or avails himself of leave granted under section 26 A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the Lieutenant-Governor funder this Act, elect from among its members Chairman or Vice-Chairman, as the case may be.

(3) If any District Board or Local Board fails to elect a new Chairman or Vice-Chairman within the prescribed period, the Lieutenant-Governor2 (in the case of a District Board) or the Commissioner (in the case of a Local Board) may appoint a new Chairman or Vice-Chairman, as the case may be.

- 129A. (1) The term of office of an elected Chairman or Vice-Chairman of a District Board or Local Board, or of an appointed Vice-Chairman of a District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board.
- (2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be re-appointed on the expiration of that term.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the term of office of a Chairman or Vice-Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.

¹ These sections 29 and 29A were substituted for the original section 29, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 16, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, 5ch. L. 3 Kow the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

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(Part I.—Local authorities.—Chapter I.—District Boards and Local Boards.—Secs. 29B-31.)

(4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office.

¹29B. Notwithstanding anything contained in any of the Fower to Local Governunder by the Commissioner, shall be subject to the administrative control of the Local Government. foregoing provisions of this Chapter, every appointment to any District or Local Board, as the case may be, made there-

Joint Committees.

30. A District Board may join with any other District Joint Board or with any Municipal 2 or Cantonment 3 authority, or Comm with more than one such Board, or Municipal or Cantonment authority, in constituting out of their respective bodies a Joint Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Committee any power which might be exercised by either or any of the Boards or authorities concerned, and may from time to time frame rules as to the proceedings of any such Joint Committee, and as to the conduct of correspondence relating to the purpose for which the Joint Committee is constituted.

Conduct of Business.

31. Minutes of the proceedings at each meeting of a District Record and publication of Board or Local Board shall be drawn up and recorded in a proceedings. book to be kept for the purpose, and shall be signed by the Chairman of the meeting, and shall be published in such manner as the Lieutenant-Governor may from time to time direct, and shall at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of such Board.

A copy of every resolution passed by a District Board at Resolutions a meeting shall, within three days from the date of the meeting, be forwarded to the Magistrate of the district for transor Local B.
mission to the Commissioner. mission to the Commissioner.

A copy of every resolution passed by a Local Board at a meeting shall, within three days from the date of the meeting, be forwarded to the District Board and to the Magistrate of the district.

t Section 29B was inserted by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) a 5, Sch. III, in Wol. III of this Code.

B As to municipal authorities, see the Bengal Municipal Act, 1864 (Ben. Act 3 of 1884), sase,

^{*}As to municipal authorities, see the Cantonments Act, 1910 (15 of 1910).

*As to cantonment authorities, see the Cantonments Act, 1910 (15 of 1910).

*For a similar section applying to District Boards, see the Bengal Municipal Act, 1984 (Ben. Act & of 1984), s. 87A, sats, p. 727.

*Mow the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises*and Assam Laws Act, 1913 (7 of 1912), s. 8, and Sch. D, items 1 and 2, Vol. I of this Code.

(Part I.-Local Authorities.-Chapter I.-District Boards and Local Boards.—Sec. 32.)

make rules as to business

- **32.** ¹[Any District Board with the sanction of the Commissioner, and subject to the control of the Lieutenant-Governors, and any Local Board, with the sanction of the District Board any of the Commissioner and subject to the control of the Lieutenant-Governor] 'may from time to time make rules' as to-
 - (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given;
 - (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
 - (c) the custody of the common seal, and the purposes for which it shall be used;
 - (d) the division of duties amongst its members;
 - (e) the powers to be exercised by the Chairman or Vice-Chairman, or by sub-committees or members to whom particular duties are assigned;
 - (f) the persons by whom receipts shall be granted for money received under this Act;
 - (g) the duties, appointment, [leave, leave-allowance and punishment (including suspension and removal),] of the officers and servants of the Board; and
 - (h) other similar matters;

and may, '[with the like sanction and subject to the like

control, from time to time repeal or alter such rules.

6 All rules made under this section, and all orders repealing or altering any such rules, shall be published in such manner as the Lieutenant-Governor? may direct; and, so far as they are consistent with this Act and with any rules made by the Lieutenant-Governor hereunder, shall, upon such publication, have the force of law.

¹ These words in square brackets in s. 82 were substituted for the words "Every District Board and svery Local Board with the sanction of the District Board," for Western Bengal, by the Bengal, becal Self-Government (Amendment) Act, 1908 (Ben. Act to 6 1908), s. 17 (a), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of

Code. That Act was extended to Eastern Bengal by the Bongal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

**Row the Governor in Council of Fort William in Bengal —see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

**For lists of rules made under section 32 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Eules and Orders, 1912, Vol. 1, Pc. VI.

**These words in square brackets in s. 32 were substituted for the words "leave, suspension and removal," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 17 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

**Phase words in equare brackets in s. 32 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 17 (c), in Vol. III of this Code.

That Act was extended to Eastern Bens al by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

ich. I. .

6 This paragraph is a. 25 was substituted for the original paragraph, for Western Bengel, by the bengel Local Self-Government (Amendment) Act, 1808 (Ben. Act 5 of 1908), a. 17 (d), in Vol III if tals Code. That Act was extended to Eastern Bengel by the Bengel Laws Act, 1914 (Ben. Act 1 f1914), a. 5 Seh. I.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards. Secs. 33-35.)

Establishments.

33. Every District Board, subject to the provisions here- District Bo inafter contained, may from time to time determine and may appoint stablishments appoint the establishment to be employed by it, or by any and fix Joint Committee constituted under section 30. 1 for by an salaries. Education Committee referred to in section 65B], and may fix the salaries to be paid to such establishment:

Provided-

(1) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner;

(2) that the aggregate salaries and allowances in any one financial year of the establishment employed by any District Board for the purpose of heading D of Part III of this Act shall not, without the sanction of the Lieutenant-Governor, exceed twenty per centum on the total amount available for expenditure by such Board upon public works during the financial year;

(3) that every District Board shall conform to any rules made by the Lieutenant-Governor under this Act regarding the qualifications of candidates for employment.

34. (Rules regarding leave of absence and absentee allowances to officers). Rep. in Western Bengal by the Bengal Local Self-(tovernment (Amendment) Act, 1908 (Ben. Act, 5 of 1908), s. 2. That Act was extended to Eastern Benyal by the Benyal Laws Act, 1914 (Ben. Act I of 1914) s. 3, Sch. I.

3 35. A District Board may, from time to time, with the Pensions and sanction of the Commissioner and subject to the control of the gratuities to be pedd out.

Lieutenant-Governor make rules for pensions and gratuities of the Distriction of the Commissioner and subject to the control of the gratuities of the Distriction of the Commissioner and subject to the control of the gratuities to be pedd out to the control of the gratuities of the Distriction of the Commissioner and subject to the control of the gratuities to be pedd out to the control of the gratuities of the Distriction of the Distric to be granted and paid out of the District Fund to its estab- Fand. lishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employes; and may, with the like sanction, and subject to the like control, repeal, add to, or alter such rules.

¹ These words in square brackets in s. 38 were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act (Ben. Act 7 1914), s. 5, fch. I. 3 Vow the Governor in Council of Fort William in Bengal—set be Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., items 1 and 2, in Vol. I of this Code.

3 This section 55 vas substituted for the original section 35 for Western Bengal, by the Code.

4 This section 50 vas substituted for the original section 35 for Western Bengal, by the Code.

5 This act in the Code of t

""
(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Chapter II.—Union Committees.— Secs. 35A-38.)

Provident Fund.

- ¹ 35A. A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor 2 make rules-
 - (a) for the creation and management of a Provident Fund for its several establishments;
 - (b) for compelling members of its establishments to make contributions to such Fund;
 - (c) for supplementing such contributions by grants from the District Fund; and
 - (d) for the payment of moneys out of such Provident Fund;

and may, with the like sanction and subject to the like control, repeal, add to, or alter such rules.

Union Committee may appoint estab-lishment and ment and

36. Every Union Committee may from time to time determine and appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment:

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of I [the District Board].

CHAPTER 11.

Union Committees.

Operation of Chapter.

37. No provision contained in this Chapter shall apply to any district, or part of a district, unless and until it has been · expressly extended thereto by notification by the Lieutenant-Governor.

Formation of Unions

38. The Lieutenant-Governor may, by order in writing, constitute any village or group of villages into a Union; and may prescribe for such Union the number of members of which the Union Committee shall consist.

Such number shall not be less than five or more than nine. It shall be lawful for the Lieutenant-Governor from time to time to vary or annul such order.

¹ Section S5A was inserted, for Western Bengal, by the Bengal Local Self-Government (Afnendment) Act, 1908 (Ben. Act 5 of 1908), s. 20, in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben Act 1 of 1914), s. 8, Sch. 1.

* Now the Governor in Council of Fort William in Bengal—see the Bengal. Bihar and Orissa and Asam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, item 1, in Vol. I of this Code.

* These words "the District Board" were substituted for the words "the Local Board to which to Union Committee creating such appointment is subordinate, "for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1998), s. 21, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act; \$994 (Ben. Act 5 of 1998), s. 21, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act; \$994 (Ben. Act 5 of 1998), s. 21, in Vol. III of this Local Self-Government (Amendment) and the Bengal Local Statutory Rules and Orders, 1912, Twi. I, Pt. VI.

* Now the Governous Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Acam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, itôm i and g, in Vol. I of this Code.

* For a list of orders made under a 88 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Pt. VI.

of 1985,]

(Part I.-Local Authorities.-Chapter II.-Union Committees, -- Secs. 89-43.)

39. Save as is hereinafter provided, such number shall be Election of elected from among the residents of the Union, in accordance Union Comwith rules made by the Lieutenant-Governor under this Act, mittees. and shall constitute the Union Committee of such Union.

40. If the electors of any Union fail to elect the full number appointment of members prescribed for the committee of such Union, the elect. Commissioner may appoint the remainder.

41. Notwithstanding anything in this Act contained, it shall appointment be lawful for the Lieutenant-Governor to direct. by order in of election. writing, for reasons to be stated in such order, that any Union Committee shall consist, either wholly or in part, of members appointed by the Commissioner.

3 41A. (1) Every Union Committee shall, from time to Chairman of time, elect one of its members to be Chairman of the Com-Union

(2) The election of any person to be Chairman of a Union Committee shall be subject to the approval of the District

(3) If a Chairman of a Union Committee be not elected within the period prescribed in this behalf by rule made under clause (c) of section 138 of this Act, the District Board shall appoint a member of the Committee to be Chairman.

42. The term of office of the members of a Union Committee Term of office shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

At the expiration of such term such members may be re-

elected or re-appointed. 43. When the place of an elected or appointed member of a ruling of Union Committee becomes vacant by the resignation or death of cies. such member, a new member shall be elected or appointed, in the manner hereinbefore provided, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or

re-appointed : · Provided that no act of the Committee or of its officers, or of the Committee in meeting, shall be deemed to be invalid by reason only that the number of the Committee at the time of the performance of such act was less than the prescribed number.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assem Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vôl. I of this Code.

1 For a list of orders made under s. 41 for Bengal, as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1913, 8.0.1, Pt. VI.

2 Section 41A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 22, in Vol. III of this Code. That Act was extended to Restern Heneral by the Bengal Laws Act, 1914 (Ben. Act 1 of 1214), s. 8, Sch. I.

(Part I.-Local Authorities.-Chapter II.-Union Committees. -Part II.-Finance.-General.-Chapter I.-Secs. 44-48.)

nt Union

44. Any Union Committee may from time to time, with the consent of '[the District Board], join with any other Union Committee or Committees in constituting out of their respective bodies a Joint Union Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Union Committee any power which might be exercised by either or any of the Union Committees ; and may from time to time frame rules as to the proceedings of any such Joint Committee and as to the conduct of correspondence relating to the purpose for which the Joint Union . Committee is constituted.

It shall be lawful for 2[the District Board] to associate not more than two of its members with any Joint Union

Committee constituted under this section.

PART II.—Finance.

GENERAL.

Lieutenant-Governor may direct that funds of existing local bodies shall be vested in new local author-

45. The Lieutenant-Governor may, by notification, direct that all or any portion of the funds vested in any local body existing in [any district in which this Act is in force] shall be vested in any local authority constituted under this Act, immediately upon such local authority being constituted.

CHAPTER I.

District Board to fix rate of road-cess annually.

. 46. A District Board, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, shall hold a meeting for the purpose of fixing the rate at which the road-cess shall be levied in the district during the ensuing

Provided that the rate at which the road-cess is levied when this Act comes into force in such district shall not be reduced

without the sanction of the Lieutenant-Governor.3

¹ These words "the District Board" were substituted for the words "the Local Board to which it is subordinate, as hereinafter provided", for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 28, in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), S. Sch. I.

8 These words "the District Board" were substituted for the words "the Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 28, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Lows Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

8 Row the Governor in Council of Fort William in Bengal—see the Bengal, Bjisar and Orissa and Amena Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, items 1 Std 2, in Vol. I of this Code.

4 For lists of solideations issued under section 45 for Bengal account total on the Stst March, 1912 and Amena Laws Act, 1912 (7 of 1912), s. 3 and Orders, 1913, Vol. I, Pt. VI.

4 These words in equals brackets in s. 45 were substituted for the words "such district" by the Userialing and Amenaliza Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code. That Act is now in the National Sch. 1908—side Act, 1908 (Ben. Act 9 of 1880), saste, p. 589.

(Part II.-Finance.-Chapter I.-Secs. 47, 48.)

- 47. Every District Board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the Lieutenant-Govthe day prescribed in the rules made by the Lieutenant-Governor under this Act,-
 - (1) a statement of the requirements and an estimate of the probable expenditure of the District Board for the ensuing financial year,

(2) a report of its proceedings,

(3) an account of its receipts and expenditure for the past financial year, and, from time to time, such other reports and accounts as the Commissioner may require.

The Magistrate of the district, when he is not Chairman of the Board, shall, on or before the day prescribed in the rules made by the Lieutenant-Governor under this Act, signify in writing to the Board his approval or disapproval of the statement of requirements and estimate.

When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries. works or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection.

The Board shall then consider his objection, and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

48. The Commissioner may either approve of the estimate Power of as it stands, or approve of it after making such alterations Commit therein as may seem to him fit, or may cause it to be returned to estimate the Board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner.

Provided that the Commissioner shall not make, and shall not require the District Board to make, otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the District Board for expenditure during the financial year.

*Explanation.—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47.

1 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Lawa Act, 1912 (7 of 1912), s. 3, and Sch. D., items 1 and 2, in Vol I of this Code.

3 This Espianation was added to s. 45 for Western Bengal, by the Bengal Local Belt-Government (Amendment) Act, 1918 (Ben. Act 5 of 1903) s. 24, in Vol. III of this Code. That Acts was xtended to Kastern Bengal by the Bengal Lawa Act, 1914 (Ben. Act 1 of 1814), s. 8, Sch. I.

Don. Act

(Part II.—Finance.—Chapter I.—Chapter II.—The District Fund.—Secs. 49-52.)

Estimates may be amended or revised. **49.** Any estimate prepared and approved as hereinbefore provided may, with the approval of the Commissioner, be amended or revised at any time by the District Board.

District
Boards may
raise loans
and may
form a
einking fund.

50. It shall be lawful for a District Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund:

¹ Provided that no loan shall be raised for the purpose of constructing and maintaining a railway or tramway under the provisions of section 80, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.

Estimates and audit of accounts of Local Boards. **51.** Every Local Board shall submit to the District Board annually, on or before such date as the District Board may appoint, a statement of the requirements and an estimate of the probable expenditure of the Local Board for the ensuing financial year, and shall submit, as often as the District Board may require, accounts of its receipts and expenditure.

The District Board may approve such estimate or may make

such alterations therein as it thinks fit.

The District Board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section, and may direct the publication of such accounts.

CHAPTER II.

THE DISTRICT FUND.

Constitution of District Fund.

- **52.** There shall be formed for each district a fund to be called the "District Fund," and there shall be placed to the credit thereof—
 - (1) the balance of the District Road Fund of the district, after payment of the expenses mentioned in section 109 of the Cess Act, 1880, as amended by this Act;

¹ This provise was added to s. 50, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Bin. Act 5 of 1908), s. 25, in Vol. III of this Code. That Act was axteribed to Eastern Bengal by the Bengal Laws Act (Ben. Act I of 1914), s. 8, Sch. I. ⁸ Printed cetts, page 560.

1 of 1871.

Ben. Act 1 of 1886.

(Part II.-Kinance.-Chapter II.-The District Fund.-Sec. 52.)

- 1 (1a) all sums received under any loan raised under section **50**;
 - (2) all sums levied within the district as fines, penalties or otherwise under this Act;
- 2(3) all sums directed by notification under section 31 of the Cattle-trespass Act, 1871, to be placed to the credit of the Fund;
- (4) all receipts in respect of public ferries within or on the boundary of the district which have been placed under the management of the District Board under the provisions of the Bengal Ferries Act,
- receipts in respect of any schools, hospitals, (5) all dispensaries, railways, tramways or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of a District Board under Part III of this Act;
- ⁵(5a) all receipts accruing within the district from under tolls or leases under Part III, heading D (1), of this Act;
 - (6) all sums which may be allotted to the District Board from the provincial revenues by the Lieutenant-Governor for any of the purposes mentioned in Part III of this Act. or for any other purpose ;
 - (7) all sums contributed to the District Board by local bodies or private persons.

The balance of the District Road Fund mentioned in clause (1) of this section shall be placed to the credit of the District Fund under a separate head.

The District Fund shall be vested in the District Board, and District Fund the balance standing to the credit of the fund shall be kept in to be vested in Board. such custody as the Lieutenant-Governor' from time to time directs.

¹ Clause (14) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1808 (Ben. Act 5 of 1908), s. 26 (1) in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

*This clause (3) was substituted for the original clause (3) for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 26 (2), in Vol. III of this Code.

That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Seb. I.

That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. s. Sch. I.

Printed in General Acts, 1868-78, Ed. 1909, p. 159.

4 As to the management of public ferries by District Boards, see the Bengal Ferries Act, 1885.

(Ben. Act 1 of 1885), s. 55, easte, p. 285.

4 Clause (5a) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), p. 26 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orless and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., items I and 3, in Vol. I of this Code.

1 This clame was inserted, in section 52, folf Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1906), s. 28 (4) in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, Sch. I.

(Part II.-Finance.-Chapter 11.-The District Fund.-Sec. 53.)

53. The District Fund shall [subject to the provisions of section 109 of the Cess Act, 1880, as amended by this Act], Ben. Act 9 be applicable to the following objects, and in the following of 1880.

- Firstly.- To the payment of any sums which the District Board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, and to the formation of a sinking fund, when required.
- Secondly.—To the payment of any sums which the District Board may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between such district and other districts.
- Thirdly.—To the payment of such percentage as the Lieutenant-Governor may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any
 - Provided that the total amount which any District Board may be required to pay on this account shall not in any year exceed two per centum on the whole amount of the District Fund for such year.
 - Fourthly.—To the payment of the salaries of the establishments employed by the District Board for the purposes of this Act. and of any pensions and gratuities granted under section 3 and section 35 [and of any grants made for supplementing contribut.ons by members of such establishments to any Provident Fund created under section 35 A], and to the payment to the Government of such percentage as the Lieutenant-Governor may from time to time direct on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments.

. . .

¹ These words in square brackets in the opening clause of a. 58 were inserted, for Western Bengal, y the Bengal Local Belf-Government (Amendment, Act), 1906 (Ben. Act 5 of 1908), s. 27 (I), in cl. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 Ben. Act 10 1914), s. 8, Sch. I.

² Printed sate, p. 580.

³ Effect the Government Council of East William in Bengal Laws Act, 1914

Printed ents, p. 580.

*Row the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and samm Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

*These words in square bractests in this clause Fourtiley were inserted, for Western Bengal, by the mgal Local Self-Government (Amendment) Act, 1906 (Ban. Act, 5 of 1906), s. 27 (29, da Vol. III tilks Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act, 1

(Part II.-Finance.- Chapter II.-The District Fund.-

1 Fifthly .- To the payment of-

- (a) expenses incurred by the District Board in-
 - ' (i) the construction, repair and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III of this Act;
 - (ii) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or of a house and land for the residence of the District Engineer, or the acquisition of land for, and the construction of, such offices or house; and
 - (iii) the performance of duties imposed, and the exercise of powers conferred, by this Act;
- (b) advances granted to members of the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves:
- (c) any contribution made by the District Board under Part III of this Act; and
- (d) any sums assigned by the District Board to a Local Board or Union Committee under this Act.

Sixthly.—To the payment, at such rates as the Lieutenant-Governor 2 may direct 3,-

(a) of travelling expenses incurred by delegates of the District Board in attending meetings convened under the rules made by the Lieutenant-Governor in pursuance of sub-section (4) of section 1 of the Indian Councils Act, 1892, for the purpose 55 & 66, viol., of recommending a person to be nominated as a c.14. member of the Lieutenant-Governor's Council;

¹ This clause Fifthly was substituted for the original clause Fifthly, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 27 (8), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

3 Now the Governor in Council of Fort William in Bengal—see the Bengal, Biliar and, Orlans and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. 1 of this Code:

3 For lists of orders under clause Sirthly for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Ft. VI.

4 These clauses (a) to (d) were substituted for the words "of the travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee of the Western Bengal, by the Bengal Local Self-Government (Amandment) Act, 1908 (Ben. Act 1908), s. 27 (4), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Soh. I.

4 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bilner and Orless and Assam Laws Act, 1912 (7 of 1912), s. 3, soh. I.

5 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bilner and Orless and Assam Laws Act, 1912 (7 of 1912), s. 3, soh. D, item 1, in Vol. 1 of this Code.

4 Section 1 of the Indian Councils Act, 3892, has been repealed by s. 9 (3) of the Indian Quencils Act, 1909 (7 Edw. VII, c. 4).

(Part II.—Finance.—Chapter II.—The District Fund.— Sec. 53.)

- ¹(b) of travelling expenses incurred by members of the District Board or any Local Board in attending meetings of the District Board or Local Board or meetings of a Committee or Joint Committee;
- '(c) in such cases, if any, as the Lieutenant-Governor' may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act; and
- $^{1}(d)$ of the expenses of any of the poorer inhabitants of the district for journeys to and from any hospital established in any part of British India for the treatment of special diseases.

Seventhly .- To the payment of expenses incurred by the District Board under section 80 of this Act.

Eighthly.—To investment in any local debenture loans issued by the Government of India or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district or between such district and other districts:

Provided-

(1) that, *[except as is provided in section 99A.] no sum shall be expended from the District Fundin the construction of any channel for the purposes of irrigation; or

for the purposes of drainage connected with any irriga-

tion works in charge of public officers; or

for the improvement or maintenance of any water-... channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the District Fund;

(2) that no part of the District Fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, 1884, unless such road shall have been Ben Acts expressly excluded from the operation of the said Act under section 30 thereof.

Printed onts, page 709.

¹ See foot-note 4 on page 229, aste.

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and sam Laws Act, 1913 (7 of 1912), a. 8, and Sch. D, itam 1, in Vol. I of this Code.

8 These wered in aquare brackets were inserted, for Western Benjat, by the Bengal Local Self-prermment (Amendment) Act, 1906 (Ben. Act 5 of 1998), s. 27 (5), in Vol. III of this Code. That it was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8,

of 1005.]

(Part II -Finance.—Chaptor II.—The District Fund.— Secs. 53A-55.)

Ren. Act 9

Ben. Act 9 fo 1880.

'(3) that the application of the balance of the District Fund mentioned in clause (1), section 52 of this Act to any object other than those referred to in section 1092 of the Cess Act, 1880 as amended by this Act, shall be subject to such rules as the Lieutenant-Governor* may prescribe.

'53A. If any deviation from the provisions of this Act, or remporary of any rule made hereunder, or of section 1092 of the Cess Act, accidental deviations 1880, as amended by this Act, relating to the crediting or from application of the balance of the District Road Fund menrelating to relating to the relating to the application of the balance of the District Road Fund menrelating to relating to the satisfaction of the Lieutenant-Governor³ to have been of application of plantict Road temporary duration or of an accidental character, he may Fund. cause a declaration to be made to that effect;

and such deviation shall thereupon be deemed to be valid, not with standing any of the provisions hereinbefore referred to.

54. Account-books of the District Fund shall be kept by Accounts of District Fund

an officer to be appointed by the District Board.

An account showing the receipts and expenditure during how to be quarter, arranged under the proper heads and duly published. the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning cr holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the District Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as

aforesaid. 55. Every District Board shall appoint a Finance Com- Finance

mittee consisting of so many members as it thinks fit. It shall be the duty of such Committee to prepare the Its duties. statements, estimates and accounts required for submission under section 47, and generally to superintend all matters

¹ Proviso (3) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), a 27 (6), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Printed anis, page 580.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. 1 of this Code.

⁴ Section 58A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1808), s. 28, in Vol. III of this Code. That Act was extended to Kastern Bengal by the Bengal Laws Act, 1904 (Ben. Act 10 1914), s. 8, Sch. I.

⁵ Now the Governor in Council of Fort William in Bengal—ses the Bengal, Bihar and Oriesa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part II.-Finance.-Chapter III.-The Union Secs. 56, 57.)

connected with the finances and accounts of the District Board.

The Finance Committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Lieutenant-Governor in that behalf.

CHAPTER III.

THE UNION FUND.

Constitution of Union Kund.

- 56. There shall be formed for each Union a fund to be called the "Union Fund," and there shall be placed to the credit thereof-
 - ²(I) all sums directed by notification under section 31³ of the Cattle-trespass Act, 1871, to be placed to the 1 of 1871 credit of the Fund;
 - (2) all sums assigned thereto by the Lieutenant-Governor 1 or District Board, whether as a contribution towards the cost of making village roads or
 - (3) all other sums received by the Union Committee in the execution of this Act.

Upion Fund mmittee.

The Union Fund shall be vested in the Union Committee and the balance standing to the credit of the Fund shall be kept in such custody as the Lieutenant-Governor 1 from time to time directs.

57. The Union Fund shall be applicable to the following objects, and in the following order:-

(1) to the payment of establishments employed, and expenses incurred, by the Union Committee for the purposes of this Act;

(2) to the payment of the expenses incurred by the Union Committee in respect of the duties imposed, and powers conferred, upon it under Part III of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.

1 Now the Governor in Council of Part William in Bengal—see the Bengal, Bihar and Orisea and Issam Enws Act, 1912 (7 of 1912), a 2, and Sch. D, items 1 and 2, in Vol. I of this Code.

2 This clause (7) was substituted for the original clause (7), for Western Bengal, by the Bengal cost Bell-Forenment (Amendment) Act, 1862 (Ben. Act of 1988), a 39, in Vol. III of this Code.

This life was extended to Reatern Bengal by the Bengal Laws Act, 1914 (Ben. Act of 1914).

Application of Union Fund.

(Part 11.-Finance.-Chapter III.-The Union Part III .- Duties and Powers of Local Authorities .-Chapter 1.-Duties and Powers of District Boards .-Secs. 58-60.)

58. Account-books of the Union Fund shall be kept by an Union Fund

officer to be appointed by the Union Committee.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor directs, and any person resident in or owning or holding land in the Union may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the Union Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the Fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as

Copies of the quarterly and yearly accounts shall be submitted to 2 [the District Board.]

PART III.—Duties and Powers of Local Authorities.

CHAPTER 1.

DUTIES AND POWERS OF DISTRICT BOARDS.

59. The provisions included under the headings A to Operation ⁸ E (both inclusive) of this Chapter shall be in force as regards included every District Board, unless and until the Lieutenant-Govern-, or shall otherwise direct.

headings

60. No provision included under the headings 'F to I Operation (both inclusive) of this Chapter shall apply to any District included a

Now the Governor in Council of Fort William in Bongal—see the Bengal, Binar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items I and 2, in Vol. I of this Code.

These words "the District Board," in a. 58, were substituted for the words "the Local Board to which such Union Committee' is subordinate," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 30, in Vol. III of this Code. Thas Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ber. Act 1 of 1914), s. 3, Son. I.

This letter "E," in this section 59, was substituted for phe letter "D," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 31, is.Avgl. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

4 This letter "F" in this section 60, was substituted for the letter "E," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 32, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

Both Act 3

(Part I.I.-Duties and Powers of Local Authorities.-Chapter I.—Duties and Powers of District Boards.— Secs. 61-63.)

Board, unless and until it has been expressly extended thereto by notification by the Lieutenant-Governor.

A.—Pounds.

Board in

361. Every District Board shall perform such functions as Pounds. may be transferred to it by notification under section 315 of 1 of 1871. the Cattle-trespass Act, 1871.

B.—Education.

Primary and middle schools under public

62. Subject to any rules made by the Lieutenant-Governor under this Act, every District Board shall be charged with, and be responsible for, the maintenance and management of all primary and middle schools under public management within the district, and construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters:

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

- '63. The District Board may, subject to any rules made by the Lieutenant Governor under this Act,-
 - (a) with its own consent, be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district; or
 - (b) make grants-in-aid of any such schools, whether the same be under public or private management.

¹ For a list of notifications issued under section 60 for Bengal as constituted on the 81st March, 1813, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt, VI.

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam La wa Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I, of this Code.

1 This section 81 was substituted for the original s. 6, for Western Bengal, by the Bengal Local Scildovernment (Amendamnt) Act, 1908 (Ben. Act 5 of 1903), s. 85, in Vol. III. of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1916 (Ben. Act I of 1914), s. 8, Sch. I.

4 For 2 list of orders transferring functions under the Cattle-trespass Act to District Boards, see sattless under Act 1 of 1871, s. 81 (a), in the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

^{**} IV.

** Friend in General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced in General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced in General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced in General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 1909, p. 166.

** Triniced In General Acts, 1868-78, Ed. 190

^{**} New the Governor in Council of Fort William in Bangal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1932 (7 of 1912), a 8, and Sch. D, item 1, in Vol. I of this Code.

(Parl III .- Duties and Powers of Local Authorities .-Chapter I.-Duties and Powers of District Boards .-Secs 64, 64A.)

. It shall be lawful for the Lieutenant-Governor to Eigh English declare that the maintenance and management of any High English school under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1884, shall be entrusted to a Joint Committee, consisting partly of members delegated by the Commissioners of such municipality and partly of members delegated by such District Boards as may be named

in the order. Every order issued under this section shall specify the number of members to be delegated, and the proportion of the cost of maintenance of the school to be provided by each of the local authorities and the municipal authority named therein.

Every Joint Committee appointed under this section shall in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on District Boards.

d imposed on District Board may, subject to any rules Provides, made by the Lieutenant-Governor under this Act,-

(a) provide buildings to be used as students hostels in manager and a students are a students. connection with schools for the maintenance and hostels. management of which the Board is responsible under section 62 or section 63, and maintain and manage

(b) make grants in aid of any school referred to in section 63 or section 64, or any other school, college or educational institution, for the purpose of providing buildings to be used as students hostels in connection with such school, college or institution, or for the purpose of maintaining and managing such hostels, for

(c) establish scolarships for the furtherance of technical or

any other special form of education:

Provided that, save with the sanction of the Local Government, no such scholarship shall be tenable at any school or institution not situated within the srea under the authority of the District Board.]

As Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisas and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items I and 2, is Vol. I of this Code.

As an order made disder section 64 for Bengal as constituted, on the \$1st. March, 1812, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

Printed and anserted, the Western Bengal, by the Bengal Local Ben-Government. (Ameng 4 Hection 64 A was inserted, for Western Bengal, by the Bengal Local Ben-Government. (Ameng 4 Hection 64 A was inserted, for Western Bengal, by the Bengal Local Ben-Government. (Ameng 5 Hection 64 A was inserted, for Orion 1908), s. 36, in Vol. III of this Code.

Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, item 1, in Vol. I of this Code.

The portion in square brackets in a 44k was added by the Bengal Laws Act, 1914 (Ben. Act, 1014), s. 5, Sch. III, in Vol. III of this Code.

Ben. Act 8 of 1884.

(Part III.-Duties and Powers of Local Authorities. Chapter I.—Duties and Powers of District Boards.— Secs. 65-65B.)

Transfer of funda by Governme o District

- **65.** It shall be lawful for the Lieutenant-Governor! from time to time to transfer to a District Board such funds as he may deem necessary for expenditure on-
 - ²(a) the improvement of any school or class of schools within the district under private management; or
 - ²(b) the maintenance or improvement of any schools or class of schools maintained and managed by the District; or
 - ²(c) the provision of buildings to be used as students hostels in connection with any school referred to in section 64, or in clause (a) or clause (b) of this section, or any other school, college or educational institution, and the maintenance and management of such hostels.

And, subject to any rules made by the Lieutenant-Governor1 under this Act, the Board shall be charged with, and be responsible for, the proper distribution of such funds.

65A. The hostels referred to in sections 64 A and 65 may be situated either within the area directly subject to the authority of the District Board or within any place or town lying within that area in which the Bengal Municipal Act, Ben, Act 1884 ', is for the time being in force.

265B. (1) Every District Board shall appoint, to be members of an Education Committee,-

and functions Education

(a) the Deputy Inspector of Schools;

(b) three members of the District Board; and

(c) not more than three residents of the district not being members of the District Board.

(2) The appointment of any person referred to in clause e) of sub-section (1) to be a member of an Education Commitee shall be subject to the approval of the Commissioner;

and, when his appointment has been so approved, such person shall, for the purposes of sub-clause (b) of clause Sixthly of section 53, be deemed to be a member of the District Board.

¹ New the Governor in Gouncil of Fort William in Bengal—see the Bengal, Bihar and Orissa and learn Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items 1 and 2, in Vol. 1 of 'this Code.

2 (Bases (a) to (c) in this section 65 were substituted for the words "the improvement of primary cancels within the district under private management", for Western Bengal, by the Bengal Local ball-Gayernment (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 36, in Vol. III of this Code. That the was greened to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, as 5.

Edections 55 A and 55 B were inserted, for Western Bengal, by the Bengal Local Self-Government and Medical Self-Government and Self-Government and

(Part III.-Duties and Powers of Local Authorities .-Chapter I.-Duties and Powers of District Boards .-Secs. 66, 67.)

- (3) It shall be the duty of an Education Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor 1 under section 138,-
 - (i) to superintend all matters connected with finances, accounts, maintenance and management of all schools maintained by the District Board, and
 - (ii) to determine the conditions to be complied with when grants are made by the District Board in aid of other schools.
- (4) Nothing in the foregoing sub-sections shall apply to schools referred to in section 64.

C.—Medical.

66. It shall be lawful for the Lieutenant-Governor' from District Board time to time to direct, by notification, that any public charitable control and dispensary or hospital within a district shall be under the administration of the District Board.

And the District Board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith. repair of all buildings connected therewith.

The Lieutenant-Governor may at any time vary or annul

any order made under this section.

67. A District Board may provide, for the use of the District inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—

itself build such dispensaries, hospitals or places of recep-

tion: or

contract for the use of any such dispensary, hospital or

place of reception, or of any part thereof; or enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

- A District Board may also provide for--
 - (a) the training and employment of compounders, midwives and veterinary practitioners; and
- (b) the promotion of free vaccination.

1 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orlssa an Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

2 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orlssa an Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Cod

3 For a list of notifications issued under section 66 for Bengal as constituted on the Sist Marci
1912, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Ft. VI.

4 This clause in section 67 was added, for Western Bengal, by the Bengal Local Self-Government
(Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 28, in Vol. III of this Code. That Act was efficient to Reastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part III.-Duties and Powers of Local Authorities.-Chapter I.—Duties and Powers of District Boards.— Secs. 68-73.)

Two or more District Boards may combine to etablish dispensaries.

District contribute to maintenance nospital outside distri of dispensary

Power to provide temporary supply of medicine and assistance.

District Board to rules made by Lieutenant-Governor.

68. Two or more District Boards may, with the approval of the Commissioner or Commissioners, combine in providing a common dispensary, hospital or place for the reception of the sick, and, with the like approval, fix the proportions of the cost thereof to be borne by them respectively.

69. A District Board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the

70. A District Board may, with the approval of the Commissioner, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

- 71. Every District Board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the Lieutenant-Governor1 under this Act.
- 72. (District Board to submit returns of births and deaths to Magistrates.) Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908, s. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

D.—Public Works.

73. From and after the establishment of a District Board in any district, all roads, bridges, channels, buildings and other property, movable or immovable, held by, or under the control and administration of, the District Road Committee or any Branch Committee in such district for the purposes of the Cess Act, 1880, shall, for the purposes of this Act, [but subject to Ben. Act the provisions of Chapter III of Part III thereof] be under the control and administration of such District Board. 4 .

^{**} New the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), a. 8, and Sch. D, items 1 and 2, in Vol. k of this Code.

** Printed sate, page 529.

** Thus words in square brackets in this section 78 were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1998 (Ben. Act 5 of 1908), a. 89, in Vol. III of this Code. That Att was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

**The provise to section 78 was repealed, in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 2, add is omitted here. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. I.

47 1005.]

(Part III.-Duties and Powers of Local Authorities.-Chapter 1.—Duties and Powers of District Boards.— Secs. 74-78A.)

74. It shall be lawful for the Lieutenant-Governor from Governor time to time to direct that any road, bridge, channel, building may place or other property, movable or immovable, which is vested in property Government and which is situated within a district shall, with District the consent of the District Board of such district, and subject to such exceptions and conditions as the Lieutenant-Governor1 may make and impose, be placed under the control and administration of the District Board for the purposes of this Act; and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the District Board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

75. Every road, building or other works constructed by a District Board from the District Fund shall be vested in the

District Board by which it has been constructed.

76. A District Board may agree with the person in whom District the property in any road, bridge, tank, ghât, well, channel Board may, or drain is vested to take over the property therein, and of owners, after such agreement may declare, by notice in writing take over and put up thereon or near thereto, that such road, bridge, tank, ghat, well, channel or drain has been transferred to the District Board.

Thereupon the property therein shall be vested in the District Board, and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the District Fund.

77. Every District Board shall, at such times and in such District form as the Commissioner may direct, submit a schedule of all Board to public works subject to the control of, or vested in, such schedules et District Board.

78. It shall be the duty of every District Board to provide District Board to for the repair and maintenance of roads, bridges, water-channels repair and and other works for directly improving communications which mainta have been taken charge of by the District Board under this Act, or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels and other means of communication.

78A. The District Board may, with the sanction of the Power to Commissioner, turn, divert, discontinue or permanently discontinue et close any road which is under the control and administration of, or is vested in, the District Board.

by District Board to be vested in it.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., items 1 and 2, in Vol. I of this Code.

⁸ For a list of orders made under section 74 for Bengal as constituted on the Sist March, 1913, set the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

Section 78A was inserted, for Westerr Bengal, by the Bengal Local State Grant Code. That Act was extended the Bestern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part III.—Duties and Powers of Local Authorities.— Chapter I.—Duties and Powers of District Boards.— Secs. 79-82.)

Miscellaneous

79. It shall be lawful for a District Board to take measures improvements. for, or to contribute towards-

> the construction, repair and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts:

the planting of trees by the roadside; and

the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage.

District Board may and maintain rail ways or tram wave.

80. It shall be lawful for a District Board, with the sanction of the Lieutenant-Governor, 1 either singly or in combination with any municipal authority or any other local authority, to construct and maintain within, or partly within and partly without, its own district, a railway or framway under the provisions of any law? for governing the construction of railways or tramways for the time being in force in Bengal, and to do all lawful acts which may be necessary in that behalf.

81. It shall be lawful for a District Board, with the sanction of the Lieutenant-Governor,1 to subscribe to any debenture loan raised by the Government of India or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which, in the opinion of such District Board, is likely to be of direct benefit to the

District Board may subscribe to debenture loan to construct and maintain rail ways or tramways.

> district. 82. It shall be lawful for the District Board, with the sanction of the '[Governor General in Council,] from time to time to guarantee the payment from the District Fund of such sums as it shall think fit as interest on capital expended on any railways, tramways or other works which may directly improve the means of communication within the district or between the district and other districts:

> Provided that no application for the said sanction shall be made, in the case of a railway or trainway, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a

District Board may guarantee interest on capital expended on works of communica-

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1912), s. 8, and Sch. D., Rems 1 and 2, in Vol. I of this Code.

8 As to railways, see the Indian Hailways Act, 1890 (9 of 1930), in General Acts, 1887-97, Ed.
1808, p. 232. As to tramways, see the Bengal Tramways Act, 1888 (Ben. Act 3 of 1888), sass, n. 68.

⁸ These words "Govern General in Council," in a. 82, were substituted for the words "Lieute-unt-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1968 Ben. Act 5 of 1968), s. 41 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal y the Bengal I aws Act, 1914 (Ben. Act 1 of 1914) s. 5, Sch. I. 4 This previou was addid to a 25, for Western Bengal, by the Bengal Local Self-Government Amendment) Act, 1966 (Ben. Act 5 of 1968), s. 41 (2), in Vol. III of this Code. That Act was thended to Bestern Bengal by the Bengal haws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

of 1865.]

(Part III.-Duties and Powers of Local Authorities .-Chapter I.—Duties and Powers of District Boards.— Secs. 83-86A.)

majority of not less than two-thirds of the members of the District Board have voted.]

83. It shall be lawful for a District Board from time to time District to undertake, on behalf of the Government, and upon such undertake conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Government:

Provided that the cost of such construction, repair or main-buildings.

tenance shall be defrayed by the Government.

84. Subject to the provisions of section 33 and to any District Board rules made by the Lieutenant-Governor under this Act, every negineer District Board shall appoint a properly qualified person to be and his District Board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary

85. It shall be the duty of the District Engineer to prepare Dutles of all plans, designs, specifications and estimates which the Engineer. District Board may require, to carry out such works as it may direct, and to conform generally to all rules that may be made by the District Board under section 32 or by the Lieutenant-Governor¹ under section 138.

86. The powers of the District Board under sections 78 Powers of Boards at and 79 shall be subject to any rules made by the Lieutenant-Governor' under this Act regarding the submission for approval and 79 to be of plans, designs, specifications and estimates;

and the power of the District Board to make any contribution under section 79 shall be subject to any rules, made by the Lieutenant-Governor under this Act prescribing conditions precedent to the making of such contribution.]

of Gow

*D(1).—Tolls on Bridges.

*86A. The District Board, with the sanction of the Lieute-Power of District Board, with the sanction of the Lieute-Power of District Sanction of the District Sanction of the District Sanction of the Di nant-Governor, * may establish a toll-bar-

(i) on any bridge in the district which has, after the date to establish to the said of the commencement of the Bengal Local Self-Government (Amendment) Act, 1908, been constructed or purchased out of the District Fund, or to

Ben. Act 5 of 1906.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), a. 3, and Sch. D, ttems 1 and 2, in Vol. 1 of this Code.

This clame was added to a. 85, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1903 (Ben. Act 5 of 1908), s. 42, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Soh. I.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orises and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item I, in Vol. 10 of this Code.

4 This beading and as. 864 to 88M were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 43, in Vol. III of this Code.

5 The 18th October, 1908.

5 Printed in Vol. III of this Code.

(Part 111.—Duties and Powers of Local Authorities.— Chapter I.—Duties and Powers of District Boards.— Secs. 83-86A.)

the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund; or

- (ii) on any road-way or foot-way of a railway-bridge which has, after the said date, at the instance of the District Board and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles or animals; or
- (iii) at any place in the district, adjacent to any bridge referred to in clause (i) or clause (ii), at which tolls may conveniently be levied;

and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge, road-way or foot-way:

Provided as follows—

- no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—
 - (a) the expenses incurrd by the District Board in constructing, purchasing, contributing to or widening such bridge, road-way or footway,
 - (b) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or footway,
 - (c) interest on such expenses, at the rate of four per centum per annum, and
 - (d) the capitalized value of the estimated cost to the District Board of maintaining such bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal;
- (3) no toll-bar shall be established, or tolls levied, on or in respect of any bridge, road-way or foot-way, the cost or estimated cost of which, as indicated in clauses (a), (b) and (d) of proviso (1), was or is less than ten thousand rupees.

of tees.

(Part III.—Duties and Powers of Local Authorities.— Chapter I.—Duties and Powers of District Boards.— Secs. 86B-86E.)

186B. The District Board may grant a lease, for any period Lease of tolk, not exceeding three years, of any toll-bar established under section 86A of this Act.

186C. When the District Boards of two adjacent districts, Proceedings of two adjacent districts, having jointly constructed, purchased or contributed towards plateled the cost of the construction or widening of a bridge, roadway Boards have or foot-way, have received sanction under section 86A of this Act to the establishment of a toll-bar, the tolls shall be levied of bridge, etc. or granted in lease by such District Board as the Lieutenant-Governor 2 may, in his order according sanction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the Lieutenant-Governor.3

*** **86D.** (1) The following persons and things shall be Exemptions. exempted from payment of tolls at any toll-bar established under section 86A of this Act, namely :-

(a) Government stores and persons in charge thereof;

(b) police-officers and other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property;

(c) conservancy carts and other vehicles and animals belonging to the District Board, and persons in

charge thereof; and

(d) any other class of persons or things which may be exempted by order of the District Board.

(2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.

186E. (1) When it has been determined that tolks shall Rates of tolks. be levied at any toll-bar established under section 86A of this Act, the District Board shall make and publish an order specifying the rates at which the tolls shall be levied.

(2) Such rates shall be subject to the sanction of the Commissioner, and may from time to time be varied with the like sanction.

Sections 66B to 86E are new—ese foot-stote 4 on p. 941, sate.
 Now the Governor in Council of Fort William in Bengal—ese the Bengal, Bihar and Origin and Assats Laws Act, 1913 (7 of 1912), s. 8, and 8 bb. D, item 1 in Vol. I of this Code.

(Part III.-Duties and Powers of Local Authorities.-Chapter I.—Duties and Powers of District Boards.— Secs. 86F-86M.)

Table of tolls to be hung up.

186F. (1) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

Power to compound for tolls.

¹86G. The District Board, or the lessee of any toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.

¹86H. Any toll-collector or lessee of a toll-bar established under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

¹86J. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine

which may extend to fifty rupees.

186K. If resistance is offered to any person authorized under this Chapter to collect tolls, any police-officer whom he may call to his aid shall be bound to assist him; and such police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

186L. If any person authorized under this Chapter to collect tolls demands or takes any higher tolls than the tolls authorized under this Chapter, he shall be liable to fine which may extend to fifty rupees, and in default of payment, to imprisonment for a term which may extend to one month.

186M. (1) When a toll-bar has been established and tolls expenses, etc., have been levied, under section 86A of this Act, in respect of of tell-bars. any bridge, roadway or foot-way, the District Board shall, at the end of each financial year, publish, by causing to be posted ביי at their office, an abstract account showing--

> (a) the amount of the expenses incurred by the District Board in constructing, purchasing, contributing to or widening the bridge, road-way or foot-way:

> (b) the amount of the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or ocmplete loss of receipts in respect

Power of toll-collector or

lessee in case of refusal to

pay toll. Penalty for

refusing to pay toll. Police officers to sasist.

Penalty for taking un-

District Board to publish

I Sections StF to StM are new, -see foot-note ton p. 941, ante.

of:1005.}

(Part III.—Duties and Powers of Local Authorities.— Chapter I.-Duties and Powers of District Boards .-Secs. 87-88A.)

> of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way;

(c) the amount of interest which has accrued due on such expenses;

(d) the capitalized value of the estimated cost to the District Board of maintaining the bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal; and

(e) the amount which has been received from the profits of the said toll-bar since its establishment

(2) As soon as such expenses, interest and capitalized value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such bridge, road-way or foot-way.

E.—Sanitation.

87. It shall be the duty of every District Board, subject District Board to any rules made by the Lieutenant-Governor under this sanitation. Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

88. A District Board may, with the approval of, and subject to such limits of cost as shall be imposed by, the Commissioner, provide any place within its district with a proper district with a proper district with water. and sufficient supply of water, and for this purpose may-

- (1) construct, repair and maintain water-works, wells or tanks, and do any other necessary acts;
- (2) take on lease or hire any water-works and purchase any water-works, or any water, or right to take or convey water, either within or without its district; and
- (3) contract with any person for a supply of water.

288A. A District Board may, with the sanction of the Power to Lieutenant-Governor, contribute such annual or other sum as towards or may be agreed upon towards the cost of-

(a) the construction, repair and maintenance, under the or preventions of the Bengal Municipal Act, 1884, of water-works, wells or tanks within the district, or

of municipa

Ben. Act 8 of 1884.

1 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

2 Section 88A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1998), s. 44, in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, Sch. L

8 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oriesa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1 in Vol. I of this Code.

4 Printed asis, page 709.

(Part III.—Duties and Powers of Local Authorities.— Chapter I.—Duties and, Powers of District Boards.— Secs. 89-91.)

(b) taking measures under the said Act for the prevention of plague in the district:

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted.

89. All streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any officer of the Government, shall, for the purposes of this Act, be under the control and administration of the District Board.

90. The District Board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any officer of the Government, for the supply of water for drinking and for culinary purposes; and, from the date of publication of such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs.

191. (1) Every District Board shall appoint, to be members of a Sanitation Committee, not more than five nor less than three members of the Board.

(2) The Civil Surgeon of the district shall be a member

ex officio of the Sanitation Committee of his district.

(3) It shall be the duty of a Sanitation Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor under section 138, to initiate and supervise works connected with the sanitation of the district, and to exercise such of the powers of the District Board as may be delegated to it in accordance with such rules.

(4) The District Board shall also appoint a properly qualified person to be its Sanitary Inspector, and, subject to the provisions of section 33, fix the salary of such Sanitary Inspector and the details of the establishment subordinate to him.

1 This section 91 was substituted for the original section 91, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 45, in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8,

Sch. 1 Stow the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1922 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

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District Board may set apart anks, parts of rivers, treams or training and sulmary surposes.

Constitution and functions of Sanitation Committees, and appointment of Sanitary Inspector.

(Part III.-Duties and Powers of Local Authorites .-Chapter I.—Duties and Powers of District Boards.— Secs. 92-97.)

(5) The Lieutenant-Governor may, for reasons which may to him appear to be sufficient, exempt any District Board, wholly or partially, from the operation of this section.

F.—Vaccination.

92. Every District Board shall, within its district, be District Board charged with the appointment, payment, management and supervision of all public vaccinators. supervision of all public vaccinators.

within their

93. Every District Board shall appoint a properly qualified District Board person to be Inspector of Vaccination within its district, and shall, subject to the provisions of section 33, fix the salary to be paid to such person.

Every Inspector of Vaccination appointed under this section shall, within the district, exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the

Bengal Vaccination Act, 1880.2

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Ben. Act 5 of 1880.

94. In every district to which the Bengal Vaccination Act, District 1880° has been, or may hereafter be, extended, the District bare powers of the Magistrate of the district of Magistrate in district in district. under section 25 of the said Act.

95. The Commissioner may, with the sanction of the commissioner Lieutenant-Governor, make rules consistent with this Act, and to make rules to make rules to make the commissioner with the Act, and to make rules t every District Board in the exercise of the powers conferred Boards. under the three last preceding sections, and may from time to

96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of, with the tenor thereof, shall be read with, and form a part of, with the tenor thereof, shall be read with, and form a part of, with the tenor thereof, shall be read with, and form a part of, with the length vaccination. time, with the like sanction, repeal or alter such rules.

G.—Census.

97. It shall be lawful for the Commissioner, with the Commission sanction of the Lieutenant-Governor, at any time to require a District District Board to make an account of the number of persons Board to who, at the time of taking such account, shall be within the district of such District Board:

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the District Fund.

¹ Now the Governor in C mucil of Fort William in Bengal—see the Bengal, Bihar and Orises as Act, 1912 (7 of 1912), a. 3, and Soh. D, item 1, in Vol. I of this Code.

1 Printed casts, page 468.
2 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orise and Assam Laws Act, 1912 (7 of 1912), a. 8, and Soh. D, items 1 and 2, in Vol. I of this Code.

(Part III.-Duties and Powers of Local Authorities .-Chapter I.—Duties and Powers of District Boards.— Secs. 98-99A.)

Powers for taking census.

98. Every District Board which shall be required to take an account under the last preceding section shall, in taking such account, conform to any rules made by the Lieutenant-Governor under this Act, and to the provisions of any Act for the time being in force for regulating the taking of a census.

H .-- Famine and Distress.

District Board may take relief case of famine or serious distress.

- 99. It shall be lawful for a District Board, subject to such limit or expenditure as may be prescribed by the Commissioner, to take such measures as it thinks fit for the relief of famine 3 [or serious distress] within its district, and for that purpose to-
 - (1) open and maintain such relief works as may be necessary;
 - (2) open and maintain such temporary hospitals, poorhouses, orphanages and places for the gratuitous distribution of food as may be necessary;
 - (3) employ such extra medical or other assistance as may be necessary;
 - '(4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary. .

Irrigation works for milet of lamine or scarcity.

*99A. It shall be lawful for a District Board, with the sanction of the Commissioner, to incur expenditure on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of. famine or scarcity within its district:

Provided that no such expenditure shall be incurred unless such irrigation work has been sanctioned by the Lieutenant-Governor as a relief work in accordance with rules made under this Act.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisas and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

3 These words "and Distress," in this heading over s 99, were substituted for the word "Belief," for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 6 of 1968), s. 46 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

These words "or serious distress", in s. 99, were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 46 (2), in Vol. III of this Orde. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. I.

5 This classes (3) was added to s. 99, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 46 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), sec. 5, Sch. I.

h. I.

4. Bestion 894. was inserted, for Western Bengal, by the Bengal Local Self-Government mendment) Act, 1998 (Ben. Act 5 of 1998), s. 47, in Vol. III of this Code. That Act was extended Sastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

5. Tow the Governor in Council of Fort William in Bengal, see the Bengal, Bihar and Orisea and seem Laws Act, 1913 (7, of 1913), s. 3, and Sch. D, item 1, in Vol. I of this Code.

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(Part III.—Duties and Powers of Local Authorities.— Chapter I.—Duties and Rowers of District Boards.— Sec. 100.)

I.—Miscellaneous.

100. It shall be lawful for a District Board, with the Miscellaneous approval of the Commissioner, and [subject to such rules and powers of restrictions as the Lieutenant-Governor may from time to Board. time prescribe] under this Act, to-

(1) establish and maintain, at such places within its district staging as it thinks fit, staging bungalows and sarais for the use of and sersis. travellers, and charge such fees for the use of such bungalows and sarais as it thinks fit:

Provided that such fees shall in no case exceed the amount prescribed by the Commissioner;

(2) offer rewards, upon such scale as may be approved by Bewards for the Commissioner, for the destruction of noxious animals noxious within the district;

(3) hold, within [the] district, from time to time, fairs Fairs and and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as may from time to time be approved by the Commissioner;

(3a) establish and maintain veterinary dispensaries for Veterinary the reception and treatment of horses, cattle and other animals, and charge such fees for the use of dispensaries as may from time to time be approved by the Commissioner;

(3b) appoint and pay qualified persons to prevent and treat disease of horses, cattle and other animals;

4(3c) provide for the improvement of the breed of horses, Breeding of

cattle and asses, and for the breeding of mules;

not otherwise provided for by this Act.

(3d) make grants-in-aid of measures for improving agri- Grants-in-aid culture or for carrying out any of the objects specified in and veterclause (3a) or clause (3c) and

(4) undertake and carry out any other local work likely to Works not promote the health, comfort or convenience of the public, and otherwise provided for.

¹ These words in square brackets in s. 100 were substituted for the words "subject to any rules made by the Lieutenant-Governor," for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 48 (1), in Yol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben Act 1 of 1914), s. 4, Sch. 1.

Sch. 1.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., item I, in Vol. I of this Code.

This word "the", in s. 100 (3), was substituted for the word "ita," for Western Bangal, by the Bengal Local Seif-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 48 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Seif-Government (Ben. Act 1 of 1914) s. 3, Sch. I

Clauses (3s) to (3d) were inserted, for Western Bengal, by the Bangal Local Seif-Government (Amendment) Act, 1908 (Ben. Act 5 of 1998), s. 48 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 2 of 2844), s. 3, 360. I.

(Part III.—Duties and Powers of Local Authorities.— Chapter II.—Duties and Powers of Local Boards.— Chapter III.—Duties and Powers of Union Committees.— Secs. 101-104.)

CHAPTER II.

DUTIES AND POWERS OF LOCAL BOARDS.

Duties of Local Board. 101. The Lieutenant-Governor, or, subject to his control, a District Board, may direct that within the area subject to the authority of a Local Board, any matter placed under the control and administration of the District Board under this Act shall be wholly or partly transferred to the control and administration of the Local Board, with adequate funds for the purposes of such control and administration.

A Local Board, as the agent of, and subject to the control of, the District Board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its

control and administration under this section.

It shall be the duty of the District Board to enforce the

responsibility imposed on a Local Board by this section.

Limits on expenditure of Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

102. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

103. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

104. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

105. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

106. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

108. **

103. • • • • 2 It shall be the duty of the Local Board to procure and submit, in such form as the District Board may prescribe, all such reports, returns and statistics as the District Board may from time to time require.

CHAPTER III.

DUTIES AND POWERS OF UNION COMMITTEES.

Union Committee to be subordinate to District Board. 104. A Union Committee, as the agent of, and subject to the control of, the '[District Board], shall, within the Union, have the control and administration of, and be responsible for, all matters specified in this Chapter, except such of those matters as the '[District Board] may think fit to take under its direct control and administration.

Sch. I.

These words "District Beard," in s. 10t, were substituted for the words "Local Board," for Western Bangal, by the Bengal Local Sail-Government (Amendment) Act, 1906 (Sen. Act 5 of 1905), s. 65, in Fel' III of this Code. That Act was extended to Sastarn Bengal Laws Act, 1216 (Sen. Act 1 of 1914), s. 8, Sch. I.

¹² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912) s. 3, and Sch. D, items I and 2, in Vol. I of this Code.

2 The words "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and "were repealed, in Western Bengal, by the Bengal Low Sch. Bengal Low S

of 1005.

(Part III .- Duties and Powers of Local Authorities .-Chapter III.—Duties and Powers of Union Committees.— Secs. 105-108.)

105. Every Union Committee shall submit annually Union to the '[District Board], on or before such date as Committee the '[District Board] may appoint, '[an estimate of the reports, probable receipts and expenditure of the Committee under estimates and except the committee of the committee of the committee of the committee of the committee and except the committee of the committee and country to the committee of the committee of the committee and country to the committee of the committee of the committee and country to the committee of the committee o each head of account] for the ensuing financial year, and District an account of its receipts and expenditure for the past Board. financial year; and shall also submit any other reports which the [District Board] may from time to time

Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may

106. A Union Committee shall not incur expenses, or expenditure undertake liabilities, to any amount exceeding the limit of Union Committee. imposed by the '[District Board].

107 Every Union Committee shall, within such time Union Committee to as the [District Board] may direct, forward to such send schedule [District Board] a schedule of all village-roads '[and bridges of roads and bridges to bridges to thereon] within the Union.

Such schedule shall state the length and width of the Board. roads, the number, description and dimensions of bridges, and such other particulars as the [District Board] may

require. 108. All village-roads [and bridges thereon] within village-roads a Union, and the stones and other materials thereof, and placed under also all erections, materials, implements and other things control and provided for such roads [and bridges], shall be placed under of Union the control and administration of the Union Committee.

1 These words "District Board." in ss. 105, 106 and 107, were substituted for the words "Local Board." for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

2 These words in square brackets in s. 105 were substituted for the words "an estimate of the Committee," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Reb. I.

Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, 8ch. I.

* This clause was added to s. 108, for Western Bengal, by the Bengal Local Self-Government, (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, 8ch. I.

*These words "and bridges thereon," in s. 107, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (4), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, 8bb. I.

*These words "and bridges thereon," in s. 106, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (7), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, 8ch. I.

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(Part III .- Duties and Powers of Local Authorities. Chapter III .- Duties and Powers of Union Committees .-Secs.-109-112.)

Maintenance and repair of village-roads and bridges.

- 109. A Union Committee shall, so far as the Union Fund permits, from time to time cause the village-roads [and bridges thereon] to be maintained and repaired, and may do all things necessary for such purpose, and may-
 - (a) lay out and make new village-roads;
 - (b) build and construct new bridges;
 - (c) turn, divert, discontinue or stop up any village road '[or bridge thereon]; and
 - (d) widen, open, enlarge or otherwise improve any such road ² [or bridge thereon].

District Board may delegate management of portions of district roads to Union

ounds.

110. The [District Board] may, with the consent of a Union Committee, delegate to such Committee the management of so much of any road under the management of the [District Board or of a Local Board] as may be situated within such Union; and such Union Committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it, and shall be responsible to the [District Board] in that behalf.

111. Every Union Committee shall perform such functions as may be transferred to it by notification under section

31° of the Cattle-trespass Act, 1871.

112. Subject to any rules made by the Lieutenant-Governor 'under this Act, every Union Committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the Union, the appointment (subject to section 36) of the gurus of such

rimary chools.

¹These words "and bridges thereon," in s. 109 were inserted, for Western Bengal, by the Bengal Local Beif-Government (Amendment) Act, 1908 (Ben. Act 5 of 1968), s. 51 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

¹These words "or bridge thereon," in clauses (c) and (d) of s. 109, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

¹These words "District Board," in s. 110, were substituted for the words "Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act of 1968), s. 53 (s), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55 (s), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55 (s), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55 (s), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Bed Government (Amendment) Act, 1908 (Ben. Act 10 1914), s. 5 printed in General Act, 1914 (Ben. Act 10 1914), s. 5 printed in General Act, 1914 (Pen. Act 1008), s. 58, in Vol. I of this Code.

at 1895.].

(Part III.—Duties and Powers of Local Authorities. Chapter III.—Duties and Powers of Union Committees. Secs. 113-116.)

schools, and the transmission to such gurus of any rewards that may be granted by the District Board or Local Board.

113. Subject to any rules made by Lieutenant-Governor Dispensarios. sunder this Act, a Union Committee may, with its own consent, be charged with, and made responsible for, the maintenance, management and visiting of any dispensary within the Union.

*114. A Union Committee shall, if required to do so by Begistration the Magistrate of the district, provide for the registration of births and births and deaths, within the Union, and shall submit such

returns thereof as the said Magisirate may direct.

*115. Every Union Committee shall, subject to the control Dates of Union of the District Board, and in accordance with rules made by Committee shall. the Lieutenant-Governor under this Act .-

as to sanita-tion, conser-

- (1) provide, as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein:
- (2) make special arrangements for the sanitation and conservancy of fairs and melas held within the Union;
- (3) have control of all drains and other conservancy works within the Union which are not under the control of any other authority; and
- (4) execute all works which are necessary for improving the sanitation, conservancy or drainage of the Union:

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

*116. (1) If it appears to the Union Committee that, for Powers of any reason, it is necessary to improve the sanitary condition Committee of any village or part of a village within the Union, the as to sanita Committee may, in accordance with a scheme approved by vany and the District Board and sanctioned by the Commissioner desiran

¹ Now the Governof in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sob. D., items 1 and 2, in Vol. I of this Code.

2 This section 114 was substituted for the original section 114, for Western Bengal, by the Bengal
Local Belf-Government (Amendment) Act, 1998 (Ben. Act 5 of 1998), s. 54, in Vol. III of this Code.
That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914),
s. 3, Sob. I.
Act the registration of births and deaths, see the Bengal Births and Deaths Registration

Act. 1873 (Ren. Act 4 of 1878), sate. p. 281.

As to the registration of births and deaths, see the Bengai Births and Deaths Registration Act, 1878 (Ben. Act 4 of 1878), ants. D. 281.

**These sections 115 to 119 were substituted for the original sections 115 to 119, for Western Bengal, by the Bengai Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), a. 55, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengai Laws Act, 1914 (Ben. Act. I of 1914), s. 8, Sch. I.

**Now the Governor is Council of Fort William in Bengal—see the Bengai, Bihar and Origina and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. B, item 1, in Vol I of this Code.

(Part III.—Duties and Powers of Local Authorities.— Chapter III.—Duties and Powers of Union Committees.— Sec. 117.)

under rules made by the Lieutenant-Governor under this Act,-

- (a) cause huts or privies to be removed either wholly or in part;
- (b) cause private drains to be constructed, altered or removed;
- (c) cause streets, passages and public drains to be constructed or widened;
- (d) cause tanks or low lands to be filled up or deepened;and
- (e) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.
- (2) The Union Committee may, by written notice,-
 - (i) require the owner or occupier of any hut, or the owner of any privy, to remove such hut or privy, either wholly or in part, in pursuance of clause (a) of subsection (1); or
 - (ii) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause
 (b) of sub-section (1),

within a period to be specified in the notice.

- (3) If any work required by any such notice is not executed within the period specified in the notice, the Union Committee may themselves cause such work to be carried out.
- (4) All expenses incurred by the Union Committee under sub-section (1) or sub-section (3), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.

Cleaning of villages.

- ² 117. (1) The Union Committee may, with the sanction of the District Board, employ a special establishment for the cleansing of any village within the Union.
- (2) If any village for which no establishment is maintained under sub-section (1) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings to the satisfaction of the Committee within a period to be specified in the notice.

¹ Now the Governor in Council of fort William in Bengal—see the Bengal, Bihar and Orlean and Assam Laws Act, 1912(7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.
³ This section 117 is new—see feet-mote 4 on p. 955 ents.

(Part III.-Duties and Powers of Local Authorities .-Chapter III.—Duties and Powers of Union Committees.— Sec. 118.)

(3) If any person on whom notice has been served under sub-section (2) fails to comply with the requisition contained in the notice, the Union Committee shall,

unless reasonable cause to the contrary is shown, cause

his holding to be cleansed, and

recover from such person such portion of the costs of such cleansing as may be approved by the Sauitation Committee, as if the same were an arrear of the assessment imposed under the Village-chankidari Act, 1870

- *118. (1) The Union Committee may subject to rules Power of Union Commade by the Lieutenant-Governor under this Act, by written order,-
 - (a) direct, in accordance with a scheme approved by the paintier to District Board and sanctioned by the Commiss disobediness District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an allignment to be prescribed by the Committee and demarcated on the ground, and
 - (b) prescribe, in accordance with the said scheme, the space which shall intervene between each new building and between new buildings and any road in the village.
- (2) Where any building, or any addition thereto, has been placed in contravention of an order passed by the Union Committee under sub-section (1), the Union Committee may apply to the District Magistrate, and such Magistrate may make an order-
 - (i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or
 - (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the Union Committee at the expense of the owner:

¹ Printed ante, page 176.

The words "or, where the Chota Nagpur Rural Police Act, 1887, is in force, under that Act" which were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Scn. IV, are omitted.

This section 118 is new—see foot-note on p. 958, ante.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Duties and Powers of Local Authorities.— Chapter III.—Duties and Powers of Union Committees.— Sec. 118A.):

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of

adducing evidence and of being heard in defence.

(3) If any person to whom a direction to demolish or alter any building is given under sub-section (2), clause (i), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to twenty rupees, and to further fine which may extend, in the case of a masonry building, to ten rupees, and in the case of any other building, to two rupees, for each day during which he so fails after the first day.

Water-supply.

- 1118A. (1) A Union Committee may provide the Union. or any part thereof, with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—
 - (a) construct, repair and maintain tanks or wells, clear out streams or water-courses, and do any other necessary acts;
 - (b) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream or watercourse, or any right to take or convey water, within or without the Union;
 - (c) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the Union, or provide facilities for obtaining water therefrom;
 - (d) deal with any tank, well, pool, ditch, drain or place containing, or used for the collection of, any drainage, filth, stagnant water or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise preventing it from being prejudicial to health, but not so as in any case to interfere with any private right; or
 - (e) contract with any person for a supply of water.
- (2) When a Union Committee has, under clause (c), with the consent of the owner, cleansed or repaired or provided facilities for obtaining water from any tank, well, stream or water-course, the same shall, subject to any rights retained by the owner, with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.

¹ Section 118A is new-see foot-note 4 on p. 958, ante

of 1885,]

(Part III.—Duties and Powers of Local Authorities.— Chapter III.—Duties and Powers of Union Committees.— Secs. 118B, 118C.)

(3) Any tank, well, stream or water-course which a Union Committee may construct, repair or maintain under clause (a), or purchase or acquire by lease under clause (b), shall remain under the control and administration of the Union Committee: and the Committee may, by order duly published in the village or villages in which such tank, well, stream or watercourse is situated, set apart the same, or, subject to the provisions of clause (c), any other tank, well, stream or water-course within the Union, for the supply of water for drinking and culinary purposes.

*118B. The Union Committee, or any member, officer or Power of servant thereof, may enter into or upon any building or land, entry. with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, section 115, section 116, section 117, section 118 or section 118A:

Provided as follows:--

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

1118C. (1) If the income of the Union Committee from Method of other sources is insufficient to meet the expenses incurred, or of works of likely to be incurred, by the Committee in carrying out its sanitation, duties or exercising its powers under section 115, section 116, section 117, section 118 or section 118A,

the committee may, from time to time, impose on the owners of buildings, tanks, wells or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the deficiency, together with ten per cent. above such sum to meet the expenses of collection and losses due to nonrealization of their shares from defaulters:

Provided that such assessment shall not be imposed

(i) it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and

¹ Sections 118B and 118C are new-see foot-note 4 on p. 958, ants.

(Part III.-Duties and Powers of Local Authorities. Chapter III.—Duties and Powers of Union Committees.— Sec. 118D.)

> in favour of which a majority of not less than twothirds of the members of the Union Committee have

- (ii) it is previously sanctioned by the District Board and the Commissioner.
- (2) The Union Committee shall appoint one of their number, or any other person, to receive and collect the said assessment, and to grant receipts for the same and to keep the accounts thereof; and may permit the person so appointed to retain any sum, not exceeding five per cent. of the amount collected by him, to repay the costs of such collection.

(3) The provisions of sections 15 to 19, 25 to 29, 31 to 34, 46A, 46B and 63 of the Village-chaukidari Act, 1870 Ben. Act 6 of * *2 shall apply to such assessment and the 1870. payment and recovery thereof:

Provided as follows-

(a) all references in any of the said sections of the Village-chaukidari Act, 1870, to a panchayat shall be 1870. construed as references to the Union Committee:

(b) the references in section 46B of the said Village-Ben. Act 6 of chankidari Act, 1870, to the chankidari assessment 1870. shall be construed as references to the assessment imposed under this section;

- (c) 8 *
- (d) the amount to be assessed on any one person shall not exceed five rupees per mensem;
- (e) the amount assessed on any person may be made payable either in lump or in periodical instalments; and
- (f) the proceeds of the said assessment shall be credited to the Union Fund.

- '118D. Any person who is aggrieved by any order of a Appeals 118D. Any personal spainst orders, Union Committee—
 - (i) directing such person to take any action with regard to his property under sub-section (2) of section 116, sub-section (2) of section 117, or sub-section (1) of section 118, or

Printed anse, page 175.

The words and figures "or, where the Chota Nagpur Rural Police Act, 1887, is in force the provisions of sections 9, 10, 18, 15 to 18, 20, 21, 84 and 86 of that Act "in sub-section (8) of section 18 C, were repealed by the Bengal Laws Act, 1914 (Bes. Act 1 of 1914), s. 6, Sch. IV, and are omitted

Clause (c) of the proviso to s. 118 C was repealed by the Bengal Laws Act, 1914 (Bes. Act 1 of 1944), s. 6, Sch. IV, and is omitted.

Act 1 of 1944), s. 6, Sch. IV, and is omitted.

Section 118D is new—see foot-note 4 on p. 953, anse.

of 1005.)

(Part III .- Duties and Powers of Local Authorities .-Chapter III.—Duties and Powers of Union Committees.— Part IV.—Control:—S:cs. 119-121.)

(ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116, or

(iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C.

may within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (c) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

1119. (1) Notwithstanding anything in the foregoing pro- Power of visions of this Act, the District Board may, by order in writing, Board to with the sanction of the Commissioner, direct that any speci- autordinate fied Union Committee shall act as the agent of, and shall be Committee subject to the control of, a Local Board, instead of the District to Local Board, either for all purposes or for the purposes specified Board. in the order.

(2) Any order made under sub-section (1) may, with the like sanction, be revoked.

(3) So long as an order made under sub-section (1) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board.

PART IV.--Control.

120. It shall be the duty of the Lieutenant-Governor and Powers of of all Commissioners and Magistrates of districts, acting under Governor the orders of the Lieutenant-Governor, to see that the proceed- and of Comings of local authorities are in conformity with law and with the rules in force thereunder.

The Tientenest Covernor's new by and or in quiting a profile trains with the rules in force the rules.

The Lieutenant-Governor may, by order in writing, annul respect to any proceeding which he considers not to be in conformity proceeding with law and with the said rules, and may do all things anthorities. necessary to secure such conformity.

121. Every local authority shall at all times permit the Records to b Commissioner or the Magistrate of the district to have access to all its books, proceedings and records.

open for

¹ Section 119 is new—see foo-note 4 on p. 268, ants.
² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 2712), s. 2, and Soh. D., thems 1 and 2, in Vol. I of this Code.

(Part IV .-- Control .-- Secs. 122-125.)

Power of Commissioner or of Magistrate to inspect works.

Appointment of Inspector of Local Works, and duties to be performed by him. 122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

123. It shall be lawful for the Lieutenaut-Governor to appoint an officer to be Inspector of Local Works in each Commissioner's division, or in more than one such division, and to

sanction an establishment for such officer.

It shall be the duty of the Inspector of Local Works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The Inspector of Local Works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Lieutenant-Governor under

this Act.

The Inspector of Local Works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, estimates and reports as he thinks fit.

A report of every inspection shall be prepared and a copy thereof forwarded to the District Board concerned, through the

Magistrate of the district.

In all matters of professional detail the local authority shall

be guided by the report of the Inspector of Local Works.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the execution of any order or resolution of a local authority within the jurisdiction of such Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done, by such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

125. When the Commissioner is informed, on complaint made or otherwise, that a District Board has made default in performing any duty imposed on it by or under this Act, the Commissioner, if satisfied, after due inquiry, that such District Board has made default as alleged, may, by order in writing

fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Board.

Power to

suspend action of

local authorities by Magistrate of district and Commissioner.

Power to provide for performance of duties in case of default by District Board,

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1913), s. 8, and Sch. D, items I and S, in Vol. I of this Code

ef:1688.7

(Part IV.—Control.—Secs. 126-130.)

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance: and such person shall make payment

accordingly.

126. In case of emergency the Magistrate of the district Extraordinary may provide for the execution of any work, or the doing of case of emerany act, which a local authority is empowered to execute or do, gency. and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the District Board.

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance; and such person shall make payment

127. When the Magistrate of the district makes any order Magistrate's under sections 124 or 126, he shall forthwith submit to the sections Commissioner a copy of the order, with a statement of his 124 and 126 to be report reasons for making it, and with any explanation which to Commisthe local authority concerned may wish to offer, and the stoner, who may confirm the local authority concerned may wish to oner, and one may confirm Commissioner may thereupon confirm, modify or rescind the modify or rescind it.

128. In every case under the last preceding section in Commission which the Commissioner confirms or modifies any order, he sing to be shall forthwith submit to the Lieutenant-Governor a copy of Lieutenantthe proceedings, and the Lieutenant-Governor may thereupon Governor for confirm, modify or rescind the order of the Commissioner.

129. When the Commissioner makes any order under Commission section 124 or 125, he shall forthwith submit to the Lieute-under section nant-Governor a copy of the order, with a statement of his 124 and 125 to he reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Lieutenant-Governor. Governor may thereupon confirm, modify or rescind the order.

130. All powers conferred upon Commissioners and Magistrates of districts in regard to District Boards by sections 124 duties of complete *[125] and 126 shall be exercised,

to be submitted to

^{*}Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orisea and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., items 1 and 2, in Yol. 1 of this Code.

*These figures "125," in this paragraph of s. 180, were inserted, for Western Bengal, by the
Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 56 (s), in Yol. III
of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part IV.-Control.-Secs. 131, 132.)

in respect of a Union Committee, 1 [by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate], and,

in respect of a Local Board, by the District Board.

When a Local Board makes any order under this section, it shall forthwith submit to the District Board a copy of the order, with a statement of its reasons for making it, and with any explanation which the Union Committee concerned may wish to offer.

The District Board may thereupon confirm, modify or

rescind the order.

When a District Board makes any order under this section, it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reasons for making it, and with any explanation which the Local Board 2 [or Union Committee] may wish to offer.

If the Commissioner is dissatisfied with the order, he may report the matter to the Lieutenant-Governor.3 who may there-

upon confirm, modify or rescind the order.

131. If a District Board or Local Board '[or Union Committee] is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act. or exceeds or abuses its powers, the Lieutenant-Governor may, by notification, specifying the reason for so doing, supersede such District Board or Local Board [or Union Committee] for a period to be specified in such notification.

132. When a District Board or Local Board ⁵ [or Union Committee] is superseded under the last preceding section, the following consequences shall ensue-

(a) all members constituting the District Board or Local Board ⁵ [or Union Committee] shall, from the date of the notification, vacate their offices as such members;

s. 8, Sch. L.

8 These words "or Union Committee," in a. 182, were inserted, for Western Bengal, by the Bengal
Lecal Self-Government, (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 36 (2), in Vol. III of this
Code. That Act was extended to Esstern Bengal by the Bengal Laws Act, 1214 (Ben. Act 3
of 1914), s. 3, Sch. I.

Power of Lieutenant. Governor to supersede District Board or Local Board or Union in case of incompetency or wilful neglect of duty. of sup

[&]quot;These words in square brackets in this paragraph of s. 150 were substituted for the words "by the Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ban. Act 5 of 1908), s. 56 (5), in Vol. III of this Code. That Act was extended to Eastern Bragal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. 1.

These words "or Union Committee," in this paragraph of s. 180 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 56 (3), n Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1934 (Ben. Act 5 of 1914), s. 3, Sch. I.

Now the Governor in Council of Fort William in Bengal—see the Bengal, Bibar and Orissa and Assan Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items I and 2, in Vol. I of this Code.

That Act was extended to Eastern Bengal were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 57, in Vol. III of this Code, That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914).

These words "C Union Committee," in s. 182, were inserted, for Western Bengal, by the Bengal Least Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 57, in Vol. III of this Code, That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914).

These words "C Union Committee," in s. 182, were inserted, for Western Bengal, by the Bengal Least Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908). s. 16 (1). in Vol. III of This Code, That Act. Was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914).

of 1885.]* ;

(Part IV.-Control.-Secs. 133, 134.)

- (b) all powers and duties of the District Board or Local Board [or Union Committee] may, until such District Board or Local Board [or Union Committee] is re-constituted, be exercised and performed by such person or persons as the Lieutenant-Governor may from time to time appoint in that behalf;
- (c) when a District Board is superseded, all property vested in it shall, pending the re-constitution of the Board, be vested in the Lieutenant-Governor.

On the expiration of the period of supersession specified in the notification, the Board [or Committee] shall be reestablished, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

Nevertheless it shall be lawful for the Licutenant-Governor² to direct that a Local Board re-established under this section shall consist entirely of appointed members, although such Local Board may have been established in the district mentioned in the third Schedule of this Act.

4133. (1) If a dispute arises between two or more Union Disputes Committees which are subordinate to the same District Board, or which have been declared by any order under section 119 to be, for the purposes of this section, subordinate to the Committees same Local Board, the matter shall be referred to such District referred to Board or Local Board, as the case may be; and the decision Distribution Board of the Board thereon shall be final and binding.

(2) If a dispute arises between two or more Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be

final and binding.

134. (Disputes between two or more Union Committees under the authority of different Local Boards to be referred to District Board when Local Boards cannot agree). Rep. in Western Bengal by the Bengal Local Self-Government (Amendment), Act, 1908, s. 59. That Act was extended to

Local Board.

¹ These words "or Union Committee," in s. 182, were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act. 1908 (Ben. Act 5 of 1908), s. 58 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. 1.

2 Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vel. I of this Code.

3 These words "or Committee" in s. 182 were inserted, for Western Bengal, by the Bengal Local Belf-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 58 (2), in Vol. III of this Code.

That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. 1.

4 This sction 183 was substituted for the original sections 183 and 184, for Western Bengal, the School Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 58, in Vel. III of this Code.

The Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 58, Sch. I.

(Part IV.—Control.—Secs. 135-138.)

Eastern Bengal by the Bengal Laws Act, 1914 (Bengal Act I

of 1914), 8. 3, Sch. I.

Disputes between two or more Local Boards to be referred to District

Disputes municipal authorities or local authorities authorities in the same district to be referred to Magistrate of district.

Decision of disputes not otherwise provided for.

135. If a dispute arises between two or more Local Boards within the area under the authority of a District Board, the matter shall be referred to the District Board, and the decision of such District Board upon the matter so referred shall be final and binding.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Magistrate of the district, and the decision of the Magistrate upon the matter so referred shall be final and binding:

Provided that, if the Magistrate is a member of one of the authorities concerned, his functions under this section shall be discharged by the Commissioner.

If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authorities, or between a local authority or authorities and a municipal authority or authorities, the matter shall be referred-

- (a) to the Commissioner or Commissioners of the Division or Divisions, if the local authorities concerned are in different districts; and
- (b) to the Lieutenant-Governor, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioners, or of the Lieutenant-Governor, as the case may be, upon the matter so referred shall be final and binding.

138. It shall be lawful for the Lieutenant-Governor to make rules, 2 consistent with this Act, for any District Board or Local Board or Union Committee for the purposes of-

(a) determining the mode and time of appointment or election of members of Boards and Committees, the term of office and the qualifications and disqualifications of such members, and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Act * [and determining the authority who shall decide disputes relating to such elections;

vernor to

Lieutenant.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, Sch. D., items 1 and 2, in Vol. 1 of this Code.

2 For lists of rules made under section 128 for Bengal as constituted on the Sist March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pr. VI.

2 These words in equate brackets were added, for Western Bengal, by the Bengal Local Self-Government (Assamgnest) Act, 1906 (Ben. Act 5 of 1908), s. 60 (1), in Vol. III of this Code, That Act was extended to Estates, Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. 1.

(Part IV.—Control.—Sec. 138.)

(b) regulating the conduct of proceedings of Boards and Committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the lauguage in which business shall be transacted;

(c) fixing the time within which a Chairman or Vice-Chair-

man may be elected;

(d) regulating the powers of District Boards to transfer property;

- (e) regulating the powers of Boards and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing
- (f) determining the [intermediate] offices, if any, through which correspondence between Boards and Committees, or members of Boards and Committees, and the Lieutenant-Governor or his officers, shall pass;
- (g) prescribing the qualifications of candidates for employment under section 33, [and declaring what circumstances shall be a disqualification for continuance of employment under that section];

(h) prescribing the times for holding meetings and for submitting statements, estimates, reports or accounts

under sections 46 and 47;

'(hI) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same;

(h2) regulating the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to objects other than those mentioned in section 1095 of the Cess Act, 1880, as amended Ben. Act 9 of

by this Act.

(i) prescribing forms for statements, estimates and accounts and regulating the keeping, checking and publication of such accounts and the manner of periodical audit under sections 54 and 55;

¹ This word "intermediate" was substituted for the word "immediate," for Western Bengal, by the Bengal Local Scif-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (2), in Yol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Art 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, Sch. D, Items 1 and 2, in Yol. I of this Code.

² These words in equare brackets in clause (2) were added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (3), in Yol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

Code. That Act was extended to hastern Bengal by the Bengal have Act, 1914 (Ass. 2001 1914), s. 8, Sch. I.

4 Clauses (\$1) and (\$2\$) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. 'Act 5 of 1908), s. 80 (4), in Vol. III.ef this.Code. that Act was extended to Eastern Bengal by the Bengal Laws Act, 1914) (Ben. 'Act 1 of 1914), s. 8, Sch. I.

5 Printed_asss, page 580.

(Part IV.—Control.—Sec. 138.)

- (j) regulating the maintenance and management of schools under sections 62, 63 and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to District Boards under section 65;
- ' (j1) prescribing the conditions subject to which grantsin-aid may be made under section 63 or section 64A;
- ' (j2) regulating the provision, maintenance and management of students' hostels under section 64A:
- ¹(j3) prescribing the powers and duties of Education Committees, and regulating the removal of members from office;
- $^{2}(j4)$ regulating the grant of scholarships established under section 64 Δ :
- (k) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district, ³ [the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination];
- (t) prescribing the procedure to be adopted in the appointment of the Engineer to the District Board under section 84, and regulating the performance and exercise of the duties and powers of such Engineer and of the Inspector of Local Works under sections 85 and 123, respectively:
- (m) regulating the submission for approval of plans, designs, specifications and estimates under section 86,
 [and prescribing conditions precedent to the making of any contribution under section 79];

¹ Clauses (j I), (j 2) and (j 3) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (5), in Vol. III of this Code. That sex was extended to Eastern Bengal, by the Eastern Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Sch. 1.

a Cliams (j d) was inserted by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 5, Sch. 11I, fa Wol. III of this Code.

These works in square-reachests is clause (k) were added, for Western Bengal, by the Bengal Escal Self-Government (Amendment) Act, 1968 (Ben. Act 5 of 1908), s. 60 (6), in Vol. III of this Code.
That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 5 of

^{1914) 1, 3, 50}h. I. in square brackets in clause (m) were added, for Western Bengal, by the Bengal Lecal Said-Government (Amendment) Act, 1908 (Ben. Act. 5 of 1908), s. 60 (7), in Vol. III of this Code. That Act was givened to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1984), s. 8, 60h. I.

(Part IV.—Control.—Sec. 138.)

1(m1) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalized value of the estimated cost to the District Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or toot-ways require periodical renewal;

(m2) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District

Boards of adjacent districts;

(n) regulating the duties and powers of District Boards [and Sanitation Committees] in regard to sanitation;

(o) regulating the duties of District Boards in regard to taking a census :

3 (01) regulating the duties of District Boards in regard to the relief of famine, serious distress or scarcity:

(p) regulating the establishment and maintenance of staging bungalows and sarias, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animals, (the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses and the breeding of mules, the making of grants-in-aid under clause (3d) of section 100 of this Act], and the carrying out of any other work likely to promote the health, comfort or convenience of the public;

(q) regulating the powers of Union Committees in regard to primary schools and dispensaries under sections

112 and 113;

*(qt) regulating the powers and duties of Union Committees in regard to sanitation, conservancy and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions:

I Clauses (m1) and (m2) were inserted, for Wostern Benyal, by the Benyal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), r. 50 (8), in Vol. III of this Code. That Act was extended to Eastern Benyal by the Benyal Laws Act, 1914 (Ben. Act 1 of 1914), r. 3, Sch. I. 8 These words in square brackets in clause (n) were inserted for Western Benyal, by the Benyal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), a. 50 (9), in Vol. III of this Code. That Act was extended to Eastern Benyal by the Benyal Laws Act, 1914 (Ben. Act 1 of 1914), a. 3, Sch. 1.

Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), 8, 8, bch. 1.

*Clance (of) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1986 (Ben. Act 5 of 1908), s. 60 (10), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1914), s. 8, 8ch. I.

*These words in square bruckets were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 60 (17), in Vol. III of this Code.

That Act was extended to Eastern Bengal by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1944), s. 8, 8ch. I.

Glass (e1) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amesons) Act, 1906 (Ben. Act 5 of 1908), a. 60 (12), in Vol. III of this Code. That Lact was enter to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Soh. I.

(Part IV.—Control.—Secs. 139, 140.)

(r) providing for the appointment and payment of auditors of the accounts of Boards and Committees;

(s) affording guidance to District Boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts; and

(t) generally, determining the relations between District Boards, Local Boards and Union Committees, and for the guidance of Boards and Committees and Government officers in all matters connected with the carrying out of the provisions of this Act;

and may from time to time repeal or alter such rules.

Rules made under this section shall be published in such manner as the Lieutenant-Governor may direct, and shall thereupon have the force of law;

and no rules under clause (a) shall come into operation until three months after they have been published as aforesaid.

In making any rule under clause (q1) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees.

By-laws.

and Local by-laws.

139. Every District Board or Local Board empowered in this behalf by the Lieutenant-Governor may, [subject to the control of the Lieutenant-Governor, make by-laws for carrying out all or any of the purposes of this Act.

By-laws made under this section shall have the force of law when '[confirmed by the Commissioner] and published in such manner and for such time as the Lieutenant-Governor1

* may direct.

alty for

140. In making a by-law under the last preceding section a Board may provide that a breach of the same shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

*This clames was added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (33), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

*Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, item 1, in Vol. I of this Code.

*These words in square brackets in s. 189, were inserted, for Western Bengal, by the Mangal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (s.), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), a. 8, Sch. L.

*For lists of by-laws made under s. 189 for Bengal as constituted on the Slat March, 1912, see the Bengal Local Selt-thory Rules and Orders, 1913, Vol. I, Pt. VI.

*These words ha square Brackets in s. 189 were substituted for the words "confirmed by the Lieutescant-Governor," for Western Bengal, by the Bengal Local Selt-Government (Amendment) Act, 1908 (Ben. Act 2 w 1898), s. 60 (b), in Vol. III of this Code. That Act was extended to Better Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part IV.—Control.—Secs. 141-144.)

141. Prosecutions under this Act for breach of by-laws Prosecutions. may be instituted by any Board, or by any person authorized

by the Board in this behalf.

A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of Criminal Procedure,1 10 of 1882. a party to, or personally interested in, any case under this

section merely because he is a member of the Board.

Miscellaneous Provisions.

142. No person shall be liable for the loss, waste or Liability of misapplication of any money or other property belonging to members of Boards and the District Board, [Local Board] or Union Committee, unless union such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a Union Committee, Local Board or District Board; and a suit for compensation for the same may be instituted against him, in such Court as the Lieutenant-Governor directs, by the District Board with the sanction of the Lieutenant Governor's or by the Secretary of State for India in Council.

143. The Lieutenant-Governor, before making any rules Procedure for under section 138, and a District Board or Local Board, before making rules and by-laws. making any by-laws under section 139, shall publish in such manner as the Lieutenant-Governor deems sufficient for giving information to persons interested the proposed rules or bylaws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall; before making such rules or by-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or by-law shall be published in the Calcutta Gazette in English, and in such other language as the Lieutenant-Governor directs, and such publication shall be evidence that the rule or by-law has been made as required by

this section.

144. If any member of a local authority, or any officer or Penalty on servant maintained by or employed under a local authority, member officers has, directly or indirectly, any share or interest in any work envent being done by order of the local authority of which he is a member, interested in contracts or by which he is maintained, or under which he is employed, made with or in any contract with or under such local authority, he shall alocal authority.

¹ Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1888 (5 of 1898), and this reference should now be taken to be made to s. 556 of that Code—see s. 8 (2) thereof, in General Acts, 1898-08, Ed. 1909, p. 40.

⁸ These words "Local Board" were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908) gs. 62, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Agt 1 of 1914), s. 8, Sch. L. S Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Bch. D, items 1 and 2, in Vol. 1 of this Code.

(Part IV.-Control.-Secs. 146, 146.)

be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the local authority; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local authority may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of the local authority.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the local authority in any matter relating to a contract or agreement between the local authority and such company or the manager or publisher of such newspaper.

Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his

professional capacity.

145. Every local authority may make compensation out of the District or Union Funds respectively to any person sustaining any damage by reason of the exercise of any of the

powers conferred by this Act.

146. No suit shall be brought against the members of any District Board, Local Board or Union Committee, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board or Committee, and also (if the suit is intended to be brought against any officer of the said Board or Committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Boards and Committees an their officers antil after the mostle's flatice of cause of actions.

Power to

compensation out of the

Local Fund.

be brought against the members of

¹ This clause was added to a 144, for Western Bengal, by the Bengal Local Salf-Government (Amendment) Act, 1906 (Ben. Act 5 of 1908), s. 68, in Vol. III of this Code. That Act was extended to Bastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(The First and Second Schedules.)

THE FIRST SCHEDULE.

(See section 2.)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act 9 of 1880.1	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	Section 182, clauses (a), (b), (c), (s), (g) and h)

THE SECOND SCHEDULE.

(See section 2.)

AMENDMENT OF ENACTMENT.

3engal Act 9 of 1880.	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	"'District Board 'means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885." "'District Fund 'means the Fund formed under section 52 of the Bengal Local Self-Government Act of 1885." In section 9, the words "and, together with other assets of such fund, shall be applied to the purposes mentioned in section * [109] "shall be omitted.

¹ Printed anss, page 529.

^a The figures "109" were substituted for the figures "111" by the Repealing and Amending Act.

1908 (1 of 1908), Sch. II—see Vol. I of this Cods.

972 THE BENGAL LOCAL SELF-GOVERNMENT AGT OF 1885.

(The Second and Third Schedules.) THE SECOND SCHEDULE.

(See section 2.)

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.		
Bengal Act 9 of 1880. 1	consolidate the	In sections 82 and 83, the words "District Road Funds" and "District Road Fund" shall be sub- stituted for the words "Committees" and "Com- mittee" respectively. In section 98, the words "District Road Fund" shall be substituted for the words "District Road Committee." In section 108, the words "and of all sums whatsoover which may be at the disposal of the District Road Committee as herein-		

THE THIRD SCHEDULE.

(See sections 6 and 9.)

Districts in every Subdivision of which a Local Board shall be established.

DISTRICT.	DISTRICT.
24-Parganas. Nadia. Murshidabad. Jessore. Khulna. Hooghly. Howrah. Bardwan.	Midnapore. Bankura. Birbhum. Dacca. Faridpur. Rajebahi. Pabna. [<i>Patna</i>].

Printed aute, page 529.

BENGAL ACT 1 OF 1886

[THE BENGAL VILLAGE CHAUEIDARI (AMENDMENT) ACT, 1886].

CONTENTS.

PREAMBLE.

SECTION.

- 1. Extent.
 Commencement.
- 2. (Repealed).
- 3. New section substituted for section 6.
- 1. Amendment of section 8.
- 5. New section substituted for section 9.
- 6. New section to follow section 9.
- 7. Amendment of section 22.
- 8. (Repealed).
- 9. Amendment of section 41
- 10. New section substituted for section 43.
- 11. New section substituted for section 44.
- 12. Amendment of sections 45.
- 13. New sections to follow section 46.

BENGAL ACT 1 OF 1886

[THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1886]1.

(2nd June, 1886.)

An Act to further amend the Village-chaukidari Act, 1870.

Ben. Act 6 of 1870.

Whereas it is expedient to further amend the Village-Preamble. chaukidari Act, 1870; It is enacted as follows:-

PRELIMINARY.

1. This Act shall be read with, and taken as part of, Bengal Extent. Act 6 of 18702 as amended by Bengal Act 1 of 1871.

And it shall come into force in all districts to which Bengal Commence-Act 6 of 1870, as amended by Bengal Act 1 of 1871, has been ment. extended.

- 2. (New section substituted for section 3). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).
 - 3. For section 6 the following shall be substituted:-

6. [Printed ante, p. 177.]

4. In section 8, for the words "fifteen days" shall be Amendment substituted the words "thirty days," and for the words "two of section 8. years" shall be substituted the words "three years.

5. For section 9 the following shall be substituted !--9. [Printed ante, p. 178.]

After section 9 the following shall be inserted:-

9A, 9B. [Printed ante, p. 178.]

7. In section 22, for the words "six per cent." shall be sub-

stituted the words "ten per cent." 8. (Amendment of section 39). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

New section aubstituted

New section. substituted for section 9. to follow

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, Sch. II.

LEMSHLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Classette, 1886, Pt. IV, page 9; for Report of Select Committee, see ibid, page 13; and for Proceedings in Council, see ibid Supplement, pages 144, 189, 498, 616 and 786.

LOCAL EXTENT.—This Act is to be read with and taken as part of, the Village 'haukklari Act, 1870 (Ben. Act 6 of 1870)—see s. I. It shocal extent is therefore the same as that of the latter Act, as to which see footnote on p. 175, ante. S. 1 of the present Act further declares that the Act shall come into force in all districts to which Ben. Act 6 of 1870, as amended by Ben. Act 1 of 1871, has been extended.

has been extended.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code.

Printed exts, page 175.

Formal words which were repealed by the Repealing and Amending Act, 1968 (1 of 1968).

976 THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1886. [Ben. Act 1 of 1886,]

(Secs. 9-13.)

A mendment of section 41

9. In section 41, after the words "such member shall himself report the same" and before the words "to such officer" shall be inserted the following:—
"or cause the same to be reported."

- New section substituted for section 48 New section new section substituted for section 44 Amendment of section 45.
- 10. For section 43 the following shall be substituted:— 43. [Printed ante, p. 184.]
 - For section 44 the following shall be substituted: 44. [Printed ante, p. 185.]
- 12. In section 45 for the words "shall issue his warrant" shall be substituted the words "may issue his warrant," and at the end of the section the following shall be added:--: [Printed ante, p. 185.]

New sections to follow section 46.

- 13. After section 46 the following shall be inserted:-
 - 46A. Superseded by the Bengal Village-chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 17, in Vol. III of this Code.

46B. [Printed ante, p. 186.]

BENGAL ACT 2 OF 1886

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT) ACT, 1886].1

(9th June, 1886).

An Act of amend Act 2 (B. C.) of 1866,2 and the Calcutta Police Ben. Act 4 of 1866. Act, 1866.

> Whereas it is expedient to amend Bengal Act 2 of 1866 * Presmble. and the Calcutta Police Act, 1866 3; It is enacted as follows:-

Ben. Act 4 of 1866.

Ben. Act 4 of 1866.

- 1. (Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.
- 2. For section 41 of Bengal Act 2 of 1866, and for section New section substitute 68 of the Calcutta Police Act, 1866, the following shall be substituted:-

(Printed ante, pp. 72, 114.)

3. After section 68 of the said Calcutta Police Act the following shall be added:-

68A. (Printed ante, p. 114.)

4. (Amendment of section 72 of Ben. Act 4 of 1866). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910).

1 SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1903), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, Sch. II.
LEGISLATURE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gesette, 1886, Pt. IV, page 11; and for Proceedings in Council, see ibid, 1886, pages 144, 189, 489, 585 and 680.
Pt. IV, page 11; and for Proceedings in Council, see ibid, 1886, pages 144, 189, 489, 585 and 680.
LOCAL EXTRIT.—Section 2 of this Act extends to the town and suburbs of Calcutta, and s. 3 extends only to the town of Calcutta.

The Calcutta Suburban Police Act, 1866. It is printed ante, p. 58.

Printed ante, page 89

BENGAL ACT 3 OF 1886

[THE BENGAL MUNICIPAL (AMENDMENT) ACT, 1886].1

(6th October, 1886.)

An Act to amend

² Act 3 (B. C.) of 1884.

Whereas it is expedient to amend Bengal Act 3 of 1884; It is enacted as follows:-

- 1. (Commencement of Act). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act. 1903—uide Act 10 of 1914, Sch. II.
- 2. For ² section 251 of New section Bengal Act 3 of 1884 the following shall be substituted:-251. (Printed ante, p. 813.)

3. After ² section 251 of New sections Bengal Act 3 of 1884 the following sections shall be inserted: 251A to 251 D. (Printed ante, pp. 814.)

substituted for section 251 of Ben. Act 8 of 1884.

to follow section 251 of Ben. Act il of 1884.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1903), Sch. 1—zer Vol. I of this Code That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, Sch. II.
LRGHBLATIVE PAPERE.—Bill (without Statement of Objects and Reasons) published in Calcutta Gazette, 1886, Pt. IV, p. 129; for Proceedings in Council, ser ibid, Supplement, pages 1865 and 1967.
LOCAL EXTENT.—The local extert of Een. Act 8 of 1886 is the same as that of Ben. Act 8 of 1884 as to which ser foot-notes on p. 709, onte.
The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-track Regulation, 1910 (1 of 1910), a 4 (2), printed in Vol. I of this Code.
Ben. Act 8 of 1886, so as far as it smended Ben. Act 4 of 1876 (the Calcutta Municipal Consolidation Act, 1879), having been repealed by Ben. Act 2 of 1888 (the Calcutta Municipal Consolidation Act, 1879), having been repealed by Ben. Act 4 of 1876 have here been omitted.

BENGAL ACT 1 OF 1887

(THE CALCUTTA SURVEY ACT, 1887). ______

CONTENTS.

PREAMBLE.

Section.

- 1. Short title. (Commencement.) Repealed. Local extent.
- Interpretation-clause.
- Local Government may order survey and appoint Superintendent.
- Superintendent may enter upon land.
- Superintendent to give notice before entering on land.
- Persons summoned failing to appear are bound by the survey.
- In case of dispute, Assistant Superintendent to hold an inquiry.
 Procedure in case of dispute as to boundaries.
- 9. Power of Assistant Superintendent to enforce attendance of witnesses.
- After inquiry, Assistant Superintendent to record his decision.
 An appeal shall lie to the Board of Revenue.
- 12. Power to refer to arbitration.
- 13. On failure of an arbitrator to act, another may be appointed.
- 14.
- 15
- Appointment of an umpire.

 Power to enforce attendance of witnesses in an arbitration.

 On failure to make an award, Assistant Superintendent may supersede the 16. arbitration.
- 17. The award.
- Superifitendent may erect boundary-marks. 18.
- Maintenance of temporary boundary-marks.
 All documents connected with the survey to be sent to the Municipal office.
- Approval of the survey by the Local Government to be notified.

 No suit shall lie unless brought within one year. 21.
- 22.
- Local Government may make rules under the Act.
- 24. How notices may be served.

- Penalty for fai ure to comply with requisition in notice.
 Proceedings not to be affected by informality.
 Power of Local Government to extend this Act to the suburbs.

BENGAL ACT 1 OF 1887.

(THE CALCUTTA SURVEY ACT, 1887).1

(2nd February, 1887.)

An Act to provide for a Survey of the Town of Calcutta.

Whereas it is expedient to provide for the survey and Presuble. demarcation of land in the town of Calcutta; It is hereby enacted as follows: 1. This Act shall be called the Calcutta Survey Act, 1887; Short title. (Commencement). Rep. by the Repealing and Amending Act 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

It extends to the town of Calcutta within the local limits of Local extent the ordinary original civil jurisdiction of Her Majesty's High

Court of Judicature at Fort William in Bengal. 2. In this Act, unless there be something repugnant in Interpretathe subject or context,-

"survey" includes identification of boundaries and all other "survey." operations antecedent to, or connected with, survey:

"Superintendent" means the Superintendent of Survey "Superintendent."

under this act:
"land" includes anything attached to the earth or permanently fastened to anything attached to the earth:

"premises," means any land described as such in the regis- "Premises." ters of the Corporation of the town of Calcutta, or as a holding in the registers of the Calcutta Collectorate?:

"owner" includes-

(a) the person having permanent interest in any land or premises;

· (b) an agent of, or manager on behalf of, such person;

(c) a trustee of such person;

(d) a body corporate in which land is vested by operation of Statute.

3. The Local Government may, whenever it thinks fit, order. Local Government may by a notification in the Calcutta Gazette, that a survey order survey shall be made of the lands situated in the town of Calcutta, and appoint Superintend.

"Owner."

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Ressons, see Calcutta Gazette, 1886, Pt. IV, p. 141; and for Proceedings in Council, see ibid, 1886, Supplement, pp. 2481, 2581; ibid, 1887. Supplement, pp. 91 and 98.

LOGAL RETENT.—This Act, as originally passed, applied only to Calcutta (see s. 1), with power to extend it to the subtrob of Calcutta (see s. 27); but it is declared by the Bengal Municipal Act, 1894 (Ben. Act 8 of 1884), s. 2284 (printed caste, p. 789); that "The Commissioners at a meeting may order that a survey shall be made of the lands situated in the municipality, and thereupon all the provisions of the Calcutta Survey Act, 1887, shall, so far as may be practicable, apply and the extended to such municipality." The present Act is therefore applicable to all provincial Managements.

extensed to such manufacture.

Parities in Bengal.

PRESE ENAUTHENTS.—As to surveys in Bengal, see also the Bengal Survey Act, 1875 (Sen. Act of 1875), safe, p. 275.

f As to the application of this Act in Provincial Municipalities, see the "Local Extent" Provincial

(Secs. 4-8.)

and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey.

The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

Superintendent may enter upon land. 4. The Superintedent of Survey shall, for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter, between the hours of surrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act:

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

of survey, the Superintendent may cause a notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owners of conterminous lands or premises, calling upon them to attend either personally or by agent on such land or premises, before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purpose of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act; and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

6. If, after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed with the survey; and the person who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

7. If in the course of survey it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent shall cause an inquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorized by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him, in person or by an authorized

Superintendent to give notice before entering on land.

Persons summoned failing to appear are bound by the survey.

In case of dispute, Assistant Superintendent to hold a inquiry.



7. 7447.1

(Secs. 9-13.)

agent, on a specified day, and to produce evidence of possession of the land in dispute.

The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the

9. For the purposes of the inquiry aforesaid the Assistant Power of Superintendent shall have power to summon and enforce the Superintendattendance of witnesses and compet the production of documents out to enforce by the same means and in the same manner as if provided in witnesses.

the case of a Court under the Code of Civil Procedure. 1

10. After the inquiry has been completed, the Assistant American Superintendent shall pass an order in writing defining clearly Assistant the subject of dispute, and shall record his decision, and the site record in the subject of dispute, and shall record his decision. 10. After the inquiry has been completed, the Assistant After inquiry, reasons for such decision.

11. An appeal shall lie from any order passed by an Anappeal Assistant Superintendent under the last preceding section to the Board of the Board of Revenue, or to such other authority as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf, if preferred within thirty days from the date of such order.

12. In every case of disputed boundaries the Assistant Power to Superintendent authorized to hold the inquiry may, on the refer to written application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may

seem reasonable for the delivery of the award:

Provided that, if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation's, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

13. Where an arbitrator nominated by a party refuses to on failure act or becomes incapable of acting by reason of death or other trator to a trator to a sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent,

of 1882.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 186 thereof, in General Acts, 1904-09, Ed. 1908, p. 184.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1916 (Ben. Act 2 of 1918).

As the application of this Act in Provincial Municipalities, see footnote 1 on page 983, and.

(Secs. 14-20.)

nominate another arbitrator; and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination; and the arbitrator so appointed may thereupon proceed with the inquiry.

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- 14. If the arbitrators differ, the award shall be in accordance with the opinion of the majority, if they are equally divided in opinion, it shall be competent to them or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire determining the boundaries in dispute shall have the force of an award of the arbitrators.
- 15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in inquiries held by himself.
- 16. If the arbitrators or the umpire appointed under the preceding sections fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the inquiry.
- 17. The award shall be made in writing, and shall be signed by the persons making it, and shall be filed in the office of the SuperIntendent, with any evidence which may have been taken by the arbitrators or the umpire.

The Superintendent shall lay down the boundaries in

accordance with the award.

uperintendnt may erect oundarymrki.

18. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

faintenance f temporary oundary parks.

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

20. After the survey of any part of the town has been completed, the Superintendent shall deposit all maps, fieldbooks, proceedings, awards and all other documents connected with the survey of such part in the Municipal office of the

Carporation of Calcutta. 1

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the Calcutta Gazette, inspect such documents free of charge.

Il documents

As to the application of this Act in Provincial Municipalities, see feetacte i on page 965 ante.

óf, 1867.]

(Secs. 21-26.)

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent, or by such officer as the Local Government may appoint in this behalf.

21. After all objections lodged under the last preceding Approval of the survey by section have been decided, the Local Government shall, if it the Local approves the survey, signify such approval by notification 1 Gov

in the Calcutta Gazette.

22. No suit shall lie to set uside any demarcation of No suit shall boundaries made under the provisions of this Act unless brought within one year from the date of the notification within one year.

mentioned in the last preceding section.

23. The Local Government may lay down rules not being Local Government may inconsistent with this Act to provide for the preparation of make rules maps and for the collection and record of any information in under the respect of any land to be surveyed under this Act. and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

24. Every notice in and by this Act required to be served How notices

on any person may be served-

(a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family and by fixing a copy on some conspicuous part of the land or

premises to which it relates; or (b) by sending a registered cover through the post office containing such notice directed to the said person at

the place where he resides:

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

be vitiated for any detect in the service of necessary and the period of this Act shall be liable to a fine not exceeding one hundred required

rupees.

26. No proceedings under this Act shall be affected by Proceedings reason of any informality, provided the directions of this Act not to be in substance and effect complied with; and no proceedings, informally, under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as

¹ For a list of notifications issued under a. 21, for Bengal as constituted on the 31st March, 1912; see the Bengal Local Statutory Rules and Orders, 1912, Vol. I., Pt. VI.

[Son. Act 1 of 1967.]

(Sec. 27.)

owner in the Calcutta Collectorate 1 or in the registers of the Corporation of the town of Calcutta. 1

Power of Local Government to extend this Act to the Saburbs. 27. The Local Government may extend the whole or any of the provisions of this Act to the whole or any part of the suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the town of Calcutta. 3

¹ As to the application of this Act in Provincial Municipalities, see footnote ¹ on page 988 and a ² For an order made under section 27, for Bangal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Pt. VI. **

*As to what areas are now included in "Oalcutta" for municipal purposes, see the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), s. 8 (7), in Vol. III of this Code.

BENGAL ACT 2 OF 1887

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1887].1

(9th March, 1887.)

An Act to amend Bengal Act 5 of 1880, *

Whereas it is expedient to amend the Bengal Vaccination Presuble. en. Act 5 of Act, 1880; It is enacted as follows:

PRELIMINARY.

1. This Act shall be read with, and taken as part of the Construction Bengal Vaccination Act, 18803.

> (Commencement). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

2. In this Act, unless there be something repugnant in the Interpretasubject or context,-

"vessel" includes anything made for the conveyance by "vessel." water of human beings or of property.

VACCINATION OF CHILDREN.

3. In section 3, immediately before the last paragraph, the Amendment following shall be inserted:-

[Printed ante, p. 467.]

The Schedule hereto annexed shall be annexed as the First Schedule to the Bengal Vaccination Act, 1880.]

4. For the first paragraph of section 4 the following shall Amendment of section 4. be substituted:-

[Printed ante, p. 467.]

VACCINATION OF PERSONS ON BOARD VESSELS.

5. To section 13 the following shall be added:-[Printed ante, p. 467.]

Amendment of section 18.

1SHORY TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), 8oh. I -see Vol. I of this Code. That Act is now known as the Amending Act, 1908—ride Act 10 of 1914, 8oh. II.

LESISLATIVE PAPRIS.—For Statement of Objects and Reasons, see Calcutta Gasette, 1886, Part IV, page 11; and for Proceedings in Council, see ibid, Supplement, pages 141, 187, 488, 580 and 740.

LOCAL EXTENT.—Since this Act is (see s. 1) to be read with and taken as part of the Bengal Vaccination Act, 1880 (Ben. Act 5 of 1880), it has the same local extent as the latter Act, as to which see footnote 1 on page 468, caste.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Papillation, 1800 (1 of 1900), section 4 (3), printed in Vol. I of this Code.

1 Printed caste, page 468.

2 This paragraph was added by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II—see Vol. I of this Code.

990 THE BENGAL VACCINATION (AMENDMENT) ACT, 1887.

Ben. Act 2 of 1887.

(Secs. 6-8.—The First Schedule.)

New section to follow section 13 the following section shall be inserted:—

13A. [Printed ante. p. 478.]

MISCELLANEOUS.

Amendment of section 28, after clause (c), the following clause shall be added:—

[Printed ante, p. 479.]

New sections to follow section 29. After section 29 the following sections shall be insection?

29A, 29B. [Printed ante, p. 479.]

THE FIRST SCHEDULE.

[Printed ante, p. 481.]

BENGAL ACT 3 OF 1888

(THE HOWRAH BRIDGE ACT AMENDMENT ACT, 1888).1

(3rd October, 1888.)

Ben. Act 9 of 1871.

An Act to amend the Howrah Bridge Act, 9 of 1871.

Whereas it is expedient to empower the Lieutenant- Preamble. Governor of Bengal to remit the payment of the tolls, fees and charges levied under the provisions of the Howrah Bridge Act of 1871 2 upon all passengers, animals, vehicles and goods using or conveyed upon the said bridge, and to re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under section 4 of the said Act; It is hereby enacted as follows:

1. This Act may be called the Howrah Bridge Act Amend- Short title. ment Act, 1888.

2. It shall be read with, and taken as part of, Bengal Construction of Act. Act 9 of 1871."

(Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903). now known as the Amending Act, 1903-vide Act 10 of 1914, Sch. II.

3. For the proviso to section 3 the following proviso shall Amendment of section 8 be substituted:-

[Printed ante, p. 218.] 4. After the proviso to section 4 the following proviso shall be added :-

[Printed ante, p. 218.]

of Ben. Act 9 of 1871. Amendment of section 4 of Ben. Act 9 of 1871.

¹ LEMISLATIVE PAPERS.—For Statement of Objects and Ressons, see Calcutta Gazette, 1888, Pt. IV, p. 98; for Report of Sciect Committee, see ibid; and for proceedings in Connell, see ibid: Supplement, pp. 1015, 1056 and 1182.

LOCAL EXTENT.—The local extent of this Act is the same as that of Ben. Act 9 of 1871 as to which see foot-note 1 on p 217 ante.

2 Printed ante, page 217

BENGAL ACT 2 OF 1889

(THE PRIVATE FISHERIES PROTECTION ACT, 1889).1

(26th June, 1889.)

An Act for the protection of the right of fishing in private

Whereas it is expedient to provide for the protection of Preamble. private rights of fishery; It is hereby enacted as follows:-

1. This Act may be called the Private Fisheries Protection Short title. Act, 1889.

2. In this Act-

"fish" includes shell-fish and turtles;

"fixed engine" means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way;

"private waters" means waters-

"Private

Interpreta-tion clause. "Fish."

" Fixed engine.

(a) which are the exclusive property of any person; or

(b) in which any person has an exclusive right of fishery, and in which fish are not confined but have means of ingress or egress.

3. Any person who—

Penalties.

(a) fishes in any private waters, not having a right to fish therein,

(b) erects, places, maintains or uses any fixed engine in private waters, or puts, or knowingly permits to be put, therein any matter for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein _belongs;

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees;

and for a subsequent offence with imprisonment which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

¹LEGISLATIVE PAPRIS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1889, Pt. IV, p. 6; for Report of Select Committee, see ibid, p. 32; and for Proceedings in Council, see ibid, Supplement, pp. 608, 714, 947 and 960.

LOCAL KITENT.—Since this Act contains no local extent clause, it must be taken to extend to the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulations, 1990 (1 or 1990), s. 4 (2), printed in Vol. I of this Code.

O'THER ENAITMENTS.—The Indian Fisheries Act, 1897 (4 of 1897), is to be read as supplemental to this Act—see s. 2 of the former Act, in General Acts, 1863–78, Ed. 1999, p. 545, Sa.

As to fishing in forest, see the Indian Forest Act, 1878 (7 of 1878), ss. 25 (1), 81 (j), in General Acts, 1863–89. Ed. 1999, p. 565, 589.

As to fishing-stares in fair ways leading to ports, see the Obstructions in Fairways Act, 1888 (16 of 1881), in General Acts, 1679–88, Ed. 1699, p. 151.

For power to make rules prohibiting or regulating fishing in public parks, see the Bengal Pablic Parks Act, 1994 (Ben. Act 2 of 1994), s. 4 (f), in Vol. III of this Code.

[Ben. Act 2 of 1889.]

(Secs. 4-6.)

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a bona fide claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeiture of fixed engine.

4. (1) Any fixed engine erected, placed, maintained or used in contravention of the last preceding section, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be forfeited.

Removal of fixed engine.

(2) And such fixed engine may be removed or taken possession of by the Magistrate of the district, or such person as he empowers in this behalf.

5. Whoever enters upon land in the possession of another

Rutry upon the land of another or mit an offence.

or upon private waters, with intent to commit any of the upon private waters with intent to comoffences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

Offences un-der this Act considered "cognizable " cognizable offences." 6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure.1

10 of 1882.

¹ Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to the latter Act—see s. 3 (1) thereof, in General Acts, 1898-1903, Ed. 1909, p. 40.

BENGAL ACT 4 OF 1889

(THE CALCUTTA BURIAL BOARDS ACT, 1889).

CONTENTS.

PREAMBLE.

SECTION.

- 1. Commencement of Act.
- 2. Definition of "public Muhammadan burial-ground."
 3. Local Government may appoint a Burial Board.
- 4. Constitution of Board.
 5. Chairman of Calcutta Corporation to be ex officio Chairman of Board.
- 6. Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.
- 7. Local Government may place other public Muhammadan burial grounds under superintendence, management or control of Board.
- Provision for making over private burial grounds to charge of Board.
- 9. Power in Board to create new burial-grounds or extend those already in existence by purchase of land.

 Power to withdraw burial-grounds from superintendence, management or control
- of Board.
- Board to receive and account for fees and grants.
- 12. Board may appoint subordinate establishment.
- 13. Power to make rules.
- Appointment of Burial Board for any community.
 Bernoval of nominated members of Boards appointed under section 14.
- 16. Filling of casual vacancies.
- Term of office of nominated members. Term of office of nominated
 Transfer of Burial Grounds.
- 19. Application of sections 4 (2) and 8 to 13 to Boards appointed under section 14.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE. (Repealed.)

BENGAL ACT 4 OF 1889

(THE CALCUTTA BURIAL BOARDS ACT, 1889).1

(11th September, 1889.)

An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.

Whereas it is expedient to make better provision for the Proamble. superintendence, management or control of the Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans, in Calcutta as defined in the Calcutta Municipal Consolidation Act of 1888;

Let 2 of

It is hereby enacted as follows:

1. (Commencement of Act). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act of 1914, Sch. II.

2. In this Act "public Muhammadan burial-ground" Definition of includes those Muhammadan burial-grounds enumerated in the Nuhammada First Schedule, and any others in which Muhammadans barialgenerally of any particular sect are in the habit of burying ground." their dead.

may appoin a Burial

Board.

Constitution

3. The Local Government may, by a notification published Government in the Calcutta Gazette, appoint a Muhammadan Burial Board for Calcutta.

4. (1) The Board shall be constituted as follows:the Chairman for the time being of the Corporation of Beard. of Calcutta;

the Health Officer for the time being of Calcutta; an officer of the Public Works Department appointed by the Local Government;

and not less than six, or more than nine, other members, who shall be Muhammadans appointed by the Local Government,

ed Dy Ulie Local Grovernment,

18Hort Title.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), 8ch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—eid. Act 10 of 1914, 8ch. 11.

Ling Islantive Paperia.—For Statement of Objects and Reasons, see Calcutta Gasette, 1888, Pt IV, p. 39; for Report of Select Committee, see thid, p. 56; and for Proceedings in Council, see thid Supplement, pp. 664, 718, 956, 1820 and 1869.

Burdal Extern—This Act extends to "Calcutta" as defined in the Calcutta Municipal Act Local Extern—This Act extends to "Calcutta" as defined in the Calcutta Municipal Act 1899 (Ben. Act 3 of 1899), i.e., the town and suburbs of Calcutta (see the preamble), and may be applied to public Muhammadan burial-grounds in the "vicinity" of Calcutta (see se. 7 to 9), and the certain burial-grounds in unspecified places (see 1.6 th; istians, see the Calcutta Burial Boards Act 1881 (Ben. Act 5 of 1881), orite, p. 637.

8 Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 5 of 1899), and this reference should now be construed as a reference to clause (7) of section of the latter Act (in Vol. III of this Code)—see the Bengal General Clauses Act, 1899 (Ben. Act 5 of 1894), s. 10, in Vol. III of this Code)—see the Bengal Local Scatutory Rules and C. dera, 1994 Vol. I, Pt. VI.

(Secs. 5-11.)

(2) The Local Government may, from time to time relieve any member of the Board appointed by it of his functions as such member.

5. The Chairman of the Corporation of Calcutta shall ex officio be Chairman of the Board.

6. The superintendence, management or control of the public Muhammadan burial-grounds enumerated in the First Schedule shall, subject to the provisions of this Act, be exercised by the Board:

Provided that the Muhammadan Burial Board shall not exercise control over such portion of any public Muhammadan burial-ground as the Local Government may declare to have been hitherto set apart for the burial of persons other than Muhammadans.

7. The Local Government may, by an order published in the Calcutta Gazette, from time to time place any other public Muhammadan burial-ground in Calcutta or its vicinity under the superintendence, management or control of the Board.

8. (1) The superintendence, management or control of any Muhammadan burial-ground situate in, or in the vicinity of, Calcutta may, with the sanction of the Local Government, be transferred by the owner or custodian thereof to the Board upon such terms as may be arranged between the Board and such owner or custodian.

(2) And such burial-ground shall thereupon be managed in all respects as a public Muhammadan burial-ground subject to

the provisions of this Act.

9. The Board may, with the sanction of the Local Government, purchase any land in, or in the vicinity of, Calcutta, whether previously used as a burial-ground or not, with the object of extending any public burial-ground under its charge or of forming a new public burial-ground.

10. The Local Government may, in its discretion at any time, withdraw any burial-ground from the superintendence, management or control of the Board.

11. The Board shall receive all fees and other monies paid or given in respect of the use of such burial-grounds, the digging of graves and the erection of monuments therein and such grants as the Local Government may, from time to time.

Chairman of Calcutta Corporation to be ex officio Chairman of Roard

Superintend-

management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.

Local.
Government
may place
other public
Muhammadan
burialgrounds under
superintendence,
management
or control of
Board.

Provision for making over private burialgrounds to charge of Board.

Power in Board to create new burialgrounds or extend those siready in existence by purchase of land.

Power to withdraw burialgrounds from grounds from superintendsnos, manage ment or control of Board.

Board to receive and account for fees and grants.

(Secs. 12-14.)

place at their disposal; and shall pay thereous an enarges and expenses incurred by them in the management and superintendence of the same, and shall submit accounts of such receipts and expenditure once in every year to the Local Government in such form and manner as the Local Government may direct.

12. The Board may, from time to time, appoint all such Board may overseers, clerks, subordinate officers and servants as they shall appoint think necessary and proper to assist in carrying out the establishment. purposes of this Act; and may, from time to time, remove any of such persons and appoint others in their place.

13. (1) The Board may, with the sanction of the Local Power to Government, from time to time make such rules 1 consistent with the purposes of this Act, as they think necessary for any of the following purposes; that is to say-

(a) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings;

(b) for the preservation, repair, and when necessary the removal, of existing monuments, and for regulating the dimensions of new monuments in any burialground under their charge;

() for regulating the scale and mode of payment of fees. charges and other dues in respect of interments in any burial-ground, and for the expenditure of the same;

- (d) for directing the manner in which, and the persons by whom, all works within any such burial ground shall be executed; and
- (e) for otherwise carrying out the purposes of this Act.
- (2) And may, from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

(3) All rules so made, and variations, alterations or revoca-

tions of rules, shall be published in the Calcuta Gazette.

14. (1) The Local Government may, by notification in the Appointment of Berisl Calcutta Gazette, appoint a Burial Board for Calcutta, for any Board tor any community other than the Christian and Muhammadan com- community.

- (2) Every such Board shall consist of-
 - (a) the Chairman of the Corporation of Calcutta,
 - (b) the Health Officer of the Corporation of Calcutta,
 - (c) an officer of the Public Works Department to be nominated from time to time by the Local Government, and
 - (d) not less than three nor more than six members representing the community concerned, to be nominated from time to time by the Local Government.

For rules made under section 12, as the Bengal Local Statutory Rules and Orders, 1912,
 These sections 14 to 19 were substituted for the original section 14 by the Calcums Burisi Beards (Amendment) Act, 1918 (Ben. Act 1 of 1918), s. 2, in Vel. III of this Code.

[Ben: Act 4

(Secs. 15-19.)

(3) The Chairman of the Corporation of Calcutta shall be the Chairman of every such Board.

Removal of nominated members of Boards appointed under section 14. Calcutta Gazette, declare that any nominated member of any Burial Board appointed under section 14 shall cease to be a member if he has, without the leave of the Chairman of the Board, been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months.

Filling of casual vacancies.

- 116. If any nominated member of any such Board be permitted by the Chairman of the Board to absent himself from meetings of the Board for any period exceeding three months,
- or dies, or resigns his membership, or ceases to be a member in pursuance of a notification published under section 15,

the vacancy shall be filled by a fresh nomination under section 14.

Term of office of nominated members.

- 117. (1) The term of office of the first members nominated to any such Board shall commence on such day as may be appointed by the Local Government.
- (2) Subject to the provisions of section 4, sub-section (2), and section 15, the term of office of members nominated to any such Board shall be as follows:—
 - (a) a member nominated in pursuance of section 16 in the place of a member who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter member; and
 - (b) other members—five years.

(3) Any nominated member shall be eligible for re-nomination at the end of his term of office.

Transfer of burialgrounds

- ¹18. The Local Government may place under the superintendence, management or control of the Burial Board appointed for any community under section 14—
 - (a) any portion of a public Muhammadan burial-ground which is excluded from the control of the Muhammadan Burial Board by the proviso to section 6, and which is used for the interment of persons belonging to such community, and

(b) any other public burial-ground, or portion thereof, which is used, or is intended to be used, for the interment of persons belonging to such community.

Application of sessions of sessions 4 (2), and 2 to 18 to 18 to Boards appointed trailer section 14.

119. Section 4, sub-section (2), and sections 8 to 13 shall apply, mutatis mutandis, to all Burial Boards appointed under section 14 and to burial-grounds under the superintendence, management or control of such Boards as well as to the Muhammadan Burial Board and Muhammadan burial-grounds.

(The First and Second Schedules.)

THE FIRST SCHEDULE.

(See section 6.)

SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED UNDER SUPERINTENDENCE. MANAGEMENT, OR CONTROL OF BOARD.

- Chopdar Bagan burial-ground, No. 54, Upper Circular Road, and Nos. 26 and 27 Manicktollah. Area of public portion, 3 bighas 12 cottahs, 3 chitacks, more or less.
- (2) Meah Bagan burial-ground. Nos. 52 and 53, Manick-tollah. Area of public portion. 3 bighas, 1 cottah, 7 chitacks, more or less.
- (3) Khodadad's buriaf-ground, No. 15. Moonsheepara Lane. Area, 4 bighas, 18 cottahs. 7 chitacks, more or less.
- (4) Rahim-ud-deen Moonshee's burial-ground, No. 20, Canal Road, West. Area, 5 bighas, 16 cottahs, 7 chitacks, more or less.
- (5) Gobra Gorustan, No. 1, Gobra Road. Area, 6 bighas, more or less.
- (6) Talbagan burial-ground, No. 6, Tiljullah 1st Lane. Area, 10 bighas, 11 cottahs, more or less.
- (7) Talbagan Khoyrutee Gorastan, No. 7, Tiljullah 1st Lane. Area, more or less, 1 bigha, 3 cottahs.
- (8) New Kasiabagan burial-ground, Tiljullah 1st Lane. Area of Muhammadan portion, 12 bighas, more or less.
- (9) Sola-anna Kobrastan, No. 70, Ekbalpore Road. Area, 17 bighas, 18 cottahs. more or less.
- (10) Moonshee Ahmud Begg Ke Kobrastan, Halsu Taloa, Ramnugger Lane. Area, 4 bighas, more or less.

THE SECOND SCHEDULE.

Rep. by the Calcutta Burial Bourds (Ammendment) Act, 1913 (Ben. Act 1 of 1913), s. 3.

¹ This Schedule is also referred to in s. 2, aute, p. 997.

BENGAL ACT 2 OF 1890

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1890].

(12th March, 1890.)

Hen. Act 5 of 1880.

An Act to amend the Bengal Vaccination Act, 1880.

Whereas it is expedent to amend the Bengal Vaccination Preamble. Act, 1880°; It is hereby enacted as follows:-

1. (Commencement). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act. 1903vide Act 10 of 1914, Sch. II.

2. In the preamble of the Bengal Vaccination Act, 1880, Amendment of preamble of preamble of preamble of Ben. Act. 5, words "the Town of Calcutta and the Port of Calcutta" shall 1880. be substituted.

3. In section 1 of the same Act, for the words " the Town, Amendment Port and Suburbs [of Calcutta]" the words "the Town of Geodoo I, Calcutta and the Port of Calcutta" shall be substituted.

4. (1) In section 2 of the same Act, for the definition of Amendment "Town of Calcutta" the definition "Town of Calcutta' means "Town of Calcutta as defined by the Calcutta Municipal Consolidation Calcutta." Act, 1888" 4, shall be substituted.

Ben. Act 2 of

(2) In the same section, add the following to the definition Addition to of "Port of Calcutta":-

"or any other law for the time being in force."

(3) (Repeal of definition of "Suburbs of Calcutta"). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

5. (1) All rules made and orders issued under section 33. of the Bengal Vaccination Act, 1880, relating to the Town of crees in force and control of the Bengal Vaccination Act, 1880, relating to the Town of control of the Calcutta in force immediately before the passing of this Act, of Act to be shall be deemed to be in force in Calcutta as defined by the control of the contro Calcutta Municipal Consolidation Act. 1888.

Ben. Act 2 of 1888.

Ben. Act 6 of 1880.

(2) The Local Government may, from time to time, modify 1888. or cancel such rules and orders.

(3) And all such rules and orders relating to the Suburbs of Calcutta are hereby repealed.

18RORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1968—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gassetis, 1890, Pt. IV, D. 2; and for Proceedings in Council, see ided, Supplement, pp. 2, 44, 172 and 206.

LOCAL EXTENT.—Since this Act merely amends the Bengal Vaccination Act, 1880 (Ben. Act 5 of 1880), it has the same local extent as the latter Act, as to which see footnote 1 on page 463 mer. The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong 'Hill-tracts', Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. 1 of this Code.

2 Printed ante, page 463.

3 The words "of Calcutta" in square brackets in ss. 2 and 3 were inserted by the Repealing and Amending Act, 1906 (1 of 1903), Sch. II—see Vol. 1 of this Code.

4 Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), and this reference should now be construed as a reference to a. 3 (7) of the laster Act in Vol. III of this Code—see the Bengal General Clauses Act, 1889, Act 1 of 1899), a. 10, in Vol. III of this Code.

5 Printed cate, page 480.

definition of

BENGAL ACT 3 OF 1890

(THE CALCUTTA PORT ACT, 1890).

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BENGAL AČT 3 OF 1890

(THE CALCUTTA PORT ACT, 1890).1

(28th May, 1890).

An Act to consolidate and amend the Law relating to the Port of Calcutta and to the appointment of Commissioners for the said Port.

Whereas it is expedient to consolidate and amend the law Preamble. relating to the Port of Calcutta and to the appointment of Commissioners for the said Port; It is hereby enacted as follows :--

CHAPTER 1.

PRELIMINARY.

1. (1) This Act may be called the Calcutta Port Act, 1890; [(2) It shall come into force on such date as the Local comment. Government may direct, not being more than three months after the date on which it may be published in the Calcutta Gazette with the assent of the Governer General.

Title and

2. (1) On the commencement of this Act, the enactments Enactments specified in the First Schedule shall be repealed to the extent repealed. mentioned in the third column thereof.

(2) But this repeal shall not revive any office, authority or thing abolished by any such enactments, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

(3) All rules and by-laws prescribed, appointments made, powers conferred and notifications published under any such enactments shall, so far as may be, be deemed to be respectively prescribed, made, conferred and published under this Act.

1 Legislative Papers.—For Statement of Objects and Reasons, see Calcutta Gazetta, 1896, Part IV, page 26; and for Proceedings in Council, see bid. 1893, Supplement, pages 651, 714, 960; ibid. 1890, Supplement, Pages 651, Supplem

Definitions.

" The Com

missioners,

"Commis-

" Dock."

" Goods."

" Land."

" Master '

" Pler."

" Port."

" Vessel."

4 Wharf "

sioner.

(Chapter I.—Preliminary.—Secs. 8, 4.),

(4) Any enactment or document referring to any enactments hereby repealed shall be construed to refer to this Act, or the corresponding portion thereof.

(5) Nothing herein contained shall deprive any person of any right of property, or other private right, except as herein-

after expressly provided.

3. In this Act, unless there be something repugnant in the subject or context,-

(1) "the Commissioners" shall mean "the Commissioners of 'the Port of Calcutta" hereinafter 'incorporated;

(2) "Commissioner" shall mean a member of the said Corporation;

(3) "dock" shall include all basins, cuts, quays, wharves, warehouses, tramways, and other works and things appertaining to any dock;

(4) "goods" shall include wares and merchandise of every description;

(5) "land" shall include the bed of the river below highwater-mark;

(6) "Master," when used in relation to any vessel, means, any person, not being a pilot, harbour-master or assistant harbour-master, having for the time being the command or charge of such vessel;

(7) "pier" shall include any stage, stairs, landing-place, jetty, floating-barge or pontoon, and any bridges or other works connected therewith:

(8) "port" shall mean the Port of Calcutta;
(9) "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transfort upon water of passengers or goods;

(10) "wharf" shall include any bank of the river which may be improved to faciliate the loading or unloading of goods, and any foreshore used for the same, and any wall enclosing or adjoining such bank or foreshore.

CHAPTER II.

OF THE CONSTITUTION OF THE PORT COMMISSION.

The duties of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained be vested in a body of Commissioners to be called "the Commissioners for the Port of Calcutta"; and such bedy of Commissioners shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

(Chapter II.—Of the Constitution of the Port Commission.— Secs. 5-10.)

5. There shall be [sixteen] Commissioners, that is to say,-

Constitution of Commis-

Chairman, Vice-Chairman.

¹[nine] elected Commissioners, five nominated Commissioners.

6. (1) Of the elected Commissioners,—

² [six] shall be elected by the Bengal Chamber of some Commerce.

one by the Calcutta Trades' Association,

one by the Commissioners of the Town of Calcutta, and

one by such body or bodies, or firms, as the Local Government shall, from time to time, select as best representing the interest of the native mercantile community.

(2) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Local Government; and the name of every person so elected shall be published in the Calcutta Gazette.

7. In the event of default being made by the electing in default of bodies aforesaid in electing any Commissioner under the last election, Loss Government preceding section within the period hereinafter prescribed in to appoint. this behalf, it shall be lawful for the Local Government to appoint a person; and the person so appointed shall be deemed to be a Commissioner as if he had been elected.

8. The nominated Commissioners, the Chairman and Vice- Local* Chairman shall be appointed by the Local Government by notification in the Calcutta Gazette.

appoint nominated man by

9. The Chairman or the Vice-Chairman, as the case may be, Term of office shall continue to hold office until the Local Government of Chairman and Vice-Chairman. Chairman. cancels his appointment or appoints a successor.

10. Every person who shall be elected or appointed to be a Term of off Commissioner shall, subject to the provisions hereinafter contained, continue to hold the office to which he shall be elected

¹ These words "sixteen" and "nine" in s. 5, were substituted for the words "fifteen" and "eight," respectively, by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 2, in Vol. III of this Code.

1 This word "six." in s. 6 (1), was substituted for the word "five" by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 3, in Vol. III of this Code.

1 This body is no wealled "the Corporation of Calcutta"—see the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), s. 6 (in Vol. III of this Code), which supersedes para. 1 of s. 4 of the Calcutta Municipal Consolidation Act, 1888 (Ben. Act 2 of 1888).

The Chairman, Vice-Chairman and Deputy Chairman of the Corporation of Calcutta are specially authorized to hold the office of Commissibner under the Calcutta Port Act, 1890—see the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), s. 87(5), in Vol. III of this Code,

4 See s. 14, post, page 1016.

[Bon. 306 8

(Chapter II.—Of the Constitution of the Port Commission.— Secs. 11-17.)

or appointed for the term of two years; but may, at the expiration of such term; be re-elected or re-appointed.

11. It shall be lawful for the Local Government, by an order from time to time, to determine whether any and what salary and allowances shall be paid to the Vice-Chairman, and whether any and what fees shall be paid to the Chairman and Commissioners for attendance at meetings for transaction of the business of the Trust; and, in the order directing the salary, allowances and fees to be paid as aforesaid, the Local Government may declare any conditions and restrictions upon and under which such salary, allowances and fees shall be payable.

12. It shall be lawful for the Local Govenment to grant leave of absence to the Vice-Chairman, and to appoint a person to officiate for such Vice-Chairman during his absence on leave.

13. (1) The Local Government shall also fix the amount of leave allowance to be granted to the Vice-Chairman, and the salary to be paid to the person who shall be appointed to his

(2) Any person appointed under ¹[the last preceding] section to act for the Vice-Chairman shall, while so acting, have all the powers, and be liable to all the restrictions and limitations, which the Vice-Chairman under this Act has and is liable to.

14. All vacancies in the number of the Commissioners, whether elected or appointed under this Act, shall be filled by election or appointment, as the case may be, within one month.

15. (1) A temporary vacancy caused by the absence on leave of any Commissioner for a period not less than three months nor more than one year shall be filled up by election or appointment in the manner hereinbefore provided.

(2) A person elected or appointed under this section to fill a temporary vacancy shall hold office until the expiry of the term of leave granted to the Commissioner whose place he fills.

16. In the case of the death, resignation or disqualification of any Commissioner, a person shall forthwith be elected or appointed in his stead in the manner hereinbefore provided.

17. Every person who, at any time after his election or appointment as a Commissioner, shall be absent from six consecutive meetings without having the permission, in that behalf of the Commissioners, or who, having such permission, thall be absent from the meetings for a period exceeding one from

(a) and every person who at any time after his election or appointment as a Commissioner shall accept or agree to accept

1 The words "the last proceding," in a. 18 (2), were substituted for the word "this" by the Calcutte Port (Amandment Ro: 1) Act, 1896 (Sen. Act 4 of 1896), s. 2, in Vol. III of this Code.

Local Government to determine salary and allo wances of Vice-Chairman; also to determine whether any fees should be paid to Chairman and Commissioners for attendance at meetings.

Power to grant leave of absence to Vice-Chairman. Local Government to fix leave

allowance of Vice-Chairman.

Vacancies in number of Commissioner to be filled within one

Mode of filling temporary

Term of temporary appointments

Mode of filling costal costal

Diagnalifica Lion of Commisnioners (Chapter III.-Of the Berrowing Powers of the Commission .-Sec. 18.)

any office or place of profit, under this Act, except the office of Vice-Chairman; or

(b) who shall, save with the sanction of the Local Government, participate or agree to participate in the profits of any work done by order of the Commissioners or be concerned or participate in the profits of any contract entered into with the Commissioners,

shall thenceforth cease to be a Commissioner, and his office shall thereon become vacant:

Provided that no Commissioner shall vacate his office by reason only of his being a shareholder in any Company, registered under the provisions of any Act for the registration of joint-stock companies passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter or otherwise, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners:

Provided also that no Commissioner shall vacate his office by reason of his being interested in any purchase or lease of land or premises, the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act; or of his being interested in any agreement under which facilities may be granted for the landing and shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities.

CHAPTER III. .

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OF THE BORROWING POWERS OF THE COMMISSION.

18. If the Local Government shall, with the previous sanc- Power to m tion of the Governor General in Council, by an order published works, in the Calcutta Gazette, so direct, it shall be lawful for the Commissioners in meeting, from time to time, to raise money for the estimated cost of any of the following purposes sanctioned by the Local Government, to such extent as it may, from time to time, direct:-

(a) the construction and repair of works and erections necessary or expedient for carrying out the purposes

¹ For a list of orders made under section 18, see the Bengal Local Statutory Rules and Orders, 1923, Vol. I, Pt. VI.

(Chapter III.—Of the Borrowing Powers of the Commission.— Secs. 19-20A.)

- (b) the acquisition of immovable and movable property requisite for such construction or repair as aforesaid;
 and
- (c) the payment of such salaries, fees and expenses, and such principal and interest, as may be due by the Commissioners.

Power to borrow moneys by way of debenture.

- 19. When an order has been published under the last preceding section, it shall be lawful for the Commissioners in meeting to borrow '[within such dates as may be approved by the Governor General in Council] any sums of money the Commissioners may require for the objects mentioned in the last preceding section, by way of debenture on—
 - (a) the security of the property now vested, or which may hereafter become vested in the Commissioners, and
 - (b) the tolls, dues, rates, rents and charges leviable under this Act,

less the sum of five and-a-half lakhs set apart by the Commissioners as a reserve fund prior to the passing of this Act, and the further sums set apart by the Commissioners as a sinking fund for the purpose of paying off the loans contracted under the authority of this Act or any enactment hereby repealed.

Form and transferability of debentures.

- ¹20. [(i) All debentures which are issued under the authority of this Act shall be in such form as the Commissioner, with the previous consent of the Governor General in Council, shall from time to time determine.
- (2) The holder of any debenture in any form duly authorized under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

(3) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.]

Right to sue on debentures vested in holders. *(4) The right to sue in respect of the moneys secured by any of such debentures, or the debentures issued under the authority of any enactment hereby repealed, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Signature of soupons strached to lebeniures. 20A. All coupons attached to debentures issued under the authority of this Act shall bear the signature of the

^{1.} These words in equate barackets in s. 19 were inserted by the Calcutta Port (Amendment) Art, 1897 (Ben. Act 2 of 1997), s. 2, in Vol. III of this Code.

*These are sections (2), (2) and (3) were substituted for the original sub-section (1) by the Calcutta Port, Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 8, in Vol. III of this Code.

*This sub-market, was re-numbered as sub-section "(4)" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 8, in Vol. III of this Code,

*Section 26A was insiring by the Calcutta Port (Amendment) Act, 1906 (Ben. Act 1 of 1908),
s. 2, in Vol. III of this Code.

(Chapter III.—Of the Borrowing Powers of the Commission.— Secs. 21-24.)

Vice-Chairman, and such signature may be engraved, litho-

graphed or impressed by any mechanical process.

21. All loans contracted by the Commissioners, whether Loans by way of debentures or otherwise under this Act, shall be a contracted to Commission first charge on the property now vested, or which hereafter to be first may become vested, in the Commissioners and on the tolls, property. dues, rates, rents and charges leviable under this Act, as provided by section 19.

22. The Commissioners in meeting may at any time, with Power to rai the previous sanction of [and within such dates as may be money for payment of approved by] the Governor General in Council, raise, either loans. by borrowing from the Secretary of State for India in Council, or by way of debenture, any money that may be required to pay any amount for the time being due under the authority of this Act or any enactment hereby repealed.

23. Unless the Local Government, with the previous Louns to be

sanction of the Governor General in Council, shall, by an order ontracted in India and published in the Calcutta Gazette, otherwise direct, all loans in indian contracted by the Commissioners under this Act shall be currency.

contracted in India and in the Indian currency.

24. (1) The Commissioners shall, in respect of each loan Establishme contracted by them by way of debenture under sections 19 and of sinking 22 of this Act, set aside half-yearly out of their income, before making any disbursement, a sinking fund of such an amount as will suffice to liquidate each such loan within "within such period, not exceeding sixty years, from the date of the contracting of the same as the Governor General in Council may in each case direct].

(2) The Commissioners in meeting may, at any time, apply application the whole or any part of a sinking fund, set apart under this section, in or towards the discharge of the moneys for the

repayment of which the fund has been established:

Provided that they pay into the fund in each year, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

(3) Such sinking fund shall be invested in the promissory lavestment notes and other securities of the Government of India, or in sinking fund the debentures issued by the Commissioners under this Act. in the names of two trustees, one being the Commissioners,

¹ These words in square brackets, in s. 22, were inserted by the Calcutta Port (Amendment), Act. 1907 (Ben. Act 2 of 1907), s. 4, in Vol. III of this Code.

² For order made under s. 25, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I,

Pt. VI.

These words in square brackets in s, 24 (1) were substituted for the words a period not exceeding thirty years from the date of the contracting of the same by the Calcutta Port (Amendment) Act, 1907 a Ben. Act 2 of 1907), s. 5, in Vol. III of this Code.

This word within " is superfluous.

(Chapter III.—Of the Borrowing Powers of the Commission.— Secs. 24A-27.)

and the other a person to be appointed by the Local Government.

Annual examination of sinking fund.

¹24A. The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.

The Commissoners shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient, unless the Governor General in Council specially continue a gradual reading transfer.

sanctions a gradual re-adjustment.

Power to borrow moneys for construction of work. 25. It shall be lawful for the Commissioners in meeting, from time to time, to borrow moneys from the Secretary of State for India in Council, at such rate of interest and upon such terms as to the time of repayment and otherwise, as the Governor General in Council may approve, for the construction, equipment, maintenance and management of any works or arrangements sanctioned by the Local Government under this Act.

Government how to proceed on default of payment of interest. 26. In case of default of payment of any interest, the Secretary of State for India in Council shall have the same remedies as may be available to other debenture-holders of the Commissioners under this, Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State for India in Council any prior or greater right than that conferred upon other debenture-holders of the Commissioners under this Act.

Power to re-pay loans before due date. 27. It shall be lawful for the Commissioners in meeting, if they think fit, out of any moneys which may come into their hands under the provisions of this Act, and which can be so applied without prejudicing the security of the other debenture-holders of the Commissioners under this Act, to repay to the said Secretary of State for India in Council any sum which, for the time being, may remain due to him under the provisions of this Act for principal, although the time fixed for the repayment of the same shall not have arrived:

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the

interest due on the outstanding principal.

Rection MA was inserted by the Calcutta Port (Amelidment) Act, 1907 (Ben. Act 2 of 1907), s. 6, in Vol. 51 of this Code.

of 1290.1

(Chapter IV .- Of the General Powers of the Commission .-Part I.—Of the Duties of the Commission.—Secs. 28-31.)

CHAPTER IV.

OF THE GENERAL POWERS OF THE COMMISSION.

PART I .- Of the Duties of the Commission.

28. (1) No act or proceeding of the Commissioners shall Acts or pro be invalidated or illegal in consequence only of there being a coolings of Commissioned vacancy in the number of the Commissioners at the time of not to be invalidated in doing or executing such act or proceeding.

consequence of vacancy.

(2) All proceedings of the Commissioners, or of any person Proceedings acting as a Commissioner in the bond fide belief that he was duly elected or appointed, shall, notwithstanding it be after-infrantly in wards discovered that there was some defect in the election or appointment appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly elected or appointed to be a Commissioner.

not to be invalidated h

29. The Commissioners may, from time to time, in Commissionaccordance with a resolution passed at a meeting, appoint eman Committees of their number for carrying into effect any part committees. of the provisions of this Act, with such powers, and under such instructions, directions or limitations, as by such resolution shall be defined; and on any such Committee three members shall be a quorum; and the Commissioners in meeting shall have power to alter or discontinue any such Committee.

30. (1) The Commissioners shall, from time to time Commission prepare, and in meeting sanction, a schedule of the staff of era to prepare officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. proper to maintain for the purposes of this Act.

(2) Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Commissioners in meeting sanction for each such officer or servant:

Provided that artisans, porters and labourers, and sirdars of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of 'section 31, *[except clause (g) thereof], section 32 or section 33 of this Act

31. (1) The Commissioners in meeting shall, from time to rower to frame rules. time, frame rules 8-

(a) for regulating the grant of leave to the officers and servants of the Commissioners;

¹ The words and figures "section 81, section 82 or section 33," in s. 80, were substituted for the words "the three next succeeding sections" by the Repealing and Amending, Ast. 1908 (1 of 1908), Sch. II, in Vol. I of this Code. That Act is now known as the Amending. Ast. 1908—rids Act 10 of 1914, Sch. II,—res also s. 75, post, p. 1908.

3 These words in square brackets in a. 80 were inserted by the Calentta Ports (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 2, in Vol. III of this Code.

5 For a rule made under section 51 (s), see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

(Chapter IV .- Of the General Powers of the Commission .-Part 1.—Of the Duties of the Commission.—Sec. 31.)

(b) for authorizing the payment of allowances to the said officers and servants, or to certain of them whilst absent on leave;

(c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

(d) for regulating the period of service of all such officers

and servants;

(e) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratituities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances; [and]1

(f) for authorizing the payment of contributions at certain prescribed rates, and, subject to certain prescribed conditions, to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act; [and

(g) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of the Calcutta Port (Amendment) Act, Ben. Act 1 1910]:

Provided that officers and servants who were appointed by Government previous to the passing of the Calcutta Port Improvement Act, 1870, and whose salaries were paid from the fund known as "The Calcutta Port Fund," and who have continued in the service of the Commissioners appointed under 1870. the said Act and of the Commissioners constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates, and subject to the same conditions, as may, from time to time, be applicable to the servants of Government of similar standing and status.

4(2) In the event of any question arising as to the right of any officer or servant, or any surviving relative of any officer or servant, to any pension, gratuity or compassionate allowance referred to in clause (e) or clause (g), or as to the amount thereof, such question shall be determined by the Local

Government.

Local Govern-

^{*} Bills gride agent and the Calcutta Port meadments, Act, 1919 (Ben. Act 1 of 1910), a. 8 (2), in Vol. III of this Code.

* Ben. Aces of 1870 was repealed by s. 2 (2) of the present Act, cats, p. 1018.

* This sub-section was substituted for the original sub-section (3) by the Calcutta Port (Amendmit) Act, 1910 (Ben. Act 1 of 1910), 4. 8 (3), in Vol. III of this Code.

of 1000.]

(Chapter IV .- Of the General Powers of the Commission .-Part I.—Of the Duties of the Commission.—Secs. 32-34.)

(3) Rules made under clauses (a) to (e) (both inclusive) [or Rules not to take affect clause (g)] shall not take effect unless and until they have until conbeen confirmed by the Governor General in Council.

32. Subject to the provisions of the said rules, and of Vice-Chairman the schedule, for the time being in force, framed by the Commissioners under section 30, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to officers and to the officers and servants of the Commissioners shall be commisexercised by the Vice-Chairman in the case of officers and sioners. servants whose monthly salary does not exceed two hundred rupees; and in every other case by the Commissioners in

232A. Notwithstanding anything contained in section 57, Disposal of the last precision and all fines realized under the last preceding section shall be under section disposed of in such manner as the Commissioners may think

33. The power of dispensing with the services of any Commissionen officer or servant of the Commissioners otherwise than by in meeting to reason of such officer's or servant's own misconduct, or of contain power with respect to retire on a pension, to officer and gratuity or compassionate allowance, [or of granting a servanta. pension, gratuity or compassionate allowance to any officer or servant injured, or to surviving relatives of any officer or servant killed, in the execution of his duty,] shall, subject to the provisions of section 31, be exercised by the Commissioners in meeting.

34. (1) Every order made by the Commissioners under Certain *[section 31, section 32 or section 33] shall, so far as the same orders of relates to the Secretary, Engineer, Traffic Manager or Chief subject to Accountant of the Commissioners, or to any other officer whose sanction monthly salary shall exceed five hundred rupees, '[or to any of Local surviving relative of any officer referred to in this section,] be subject to the previous sanction of the Local Government.

(2) In this section, the word "Engineer" means the "Engineer" defined. Engineer of highest grade on the Commissioners' ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Commissioners.

¹ The words "or clause (g)" were inserted in s. 21 (3) by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 5 (3), in Vol. III of this Code.

2 Section 22A was inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1896), s. 5, in Vol. III of this Code.

3 These words in square brackets were inserted in s. 23 by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 4, in Vol. III of this Code.

4 These words and figures in square brackets in s. 24 were substituted for the 1964s, "any of the three last preceding sections" by the Repealing and Amending Act, 1908 (1 of 1903), Sch. II, in Vol. I of this Code.

5 These words in square brackets were inserted in s. 25 by the Calcutta Port (Amendment) Act.

vol. 1 or runs words.

5 These words in square brackets were inserted in s. 85 by the Calcutta Port (Amendment) Act,
1910 (Ben. Act 1 of 1910), s. 5, in Vol. III of this Code.

(Chapter IV.—Of the General Powers of the Commission.— Part I.—Of the Duties of the Commission.—Secs. 35, 36.)

nstructed and carried out by Com

- 135. The works to be constructed and carried out by the Commissioners under the provisions of this Act may include—
 - (1) docks, wharves, quays, stages, jetties and piers, within the port, with all necessary and convenient arches, drains, landing-places, stairs, fences and approaches; and quarters and buildings necessary for the residence of the officers employed therefor;

(2) railways;

(3) warehouses and sheds, with all necessary appliances for receiving and storing goods landed or to be shipped or carried, and places suitable for the sampling and selling of such goods;

(4) laying down moorings for carrying out the purposes of this Act; and the erection of cranes, scales, and all other necessary means and appliances for load-

ing and unloading vessels;

(5) reclaiming, enclosing and raising any part of the river bank or the river bed within the port, which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act;

(6) the construction and application of dredgers and other machines for clearing, deepening and improv-

ing the river bed within the port;

(7) the building of steam-vessels required for the purpose of towing vessels in the port;

²(7a) the building of vessels for the carrying of passengers and their personal effects within, or partly within and partly without, the limits of the port;

(8) the construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act; and all such other works and appliances as may, in the opinion of the Commissioners in meeting, be necessary for carrying out the purposes of this

36. (1) The Local Government may, at any time, order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof.

my order

(2) The cost of such survey and examination shall be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.

¹ This section was substituted for the former s. 85 by the Calcutta Port (Amendment No. 2) Act, 1886 (Ben. Act 6 of 1995), s. 5, in Vol. III of this Code.

² Clause (7s) was inserted by the Calcutta Port (Amendment) Act, 1905 (Ben Act 4 of 1905), s. 4, in Vol. III of this Code.

őf 1996.]

(Chapter IV .- Of the General Powers of the Commission .-Part I.-Of the Duties of the Commission.-Part II.-Of the mode of transacting Business and entering into Contracts.—Secs. 37-40).

37. (1) If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall dorenteen not complete any work commenced by them or included in complete any work commenced by them or included in complete to the complete or complete any estimate as aforesaid submitted and approved of, and construct shall not, after due notice in writing, proceed effectually to prof Comparing or complete such work under this Act, it shall missioner. repair or complete such work under this Act, it shall be lawful for the Local Government to cause such work to be restored, completed or constructed, either by the officers of the Local Government or any private contractor.

(2) The cost of any such restoration, completion or construction of cost of restoration, etc., of works to be debt due to Government. tion shall be a charge on the works and a debt due from the Commissioners to the Secretary of State for India in Council.

38. (1) If at any time it shall appear to the satisfaction of Indefault of the Local Government that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been, and are not likely to be, properly maintained by the Commissioners,

it shall be lawful for the Local Government, by a notification to be published in the Calcutta Gazette, to declare that if, within a period of six months from the date of such notification, the Commissioners fail to take measures to the satisfaction of the Local Government for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

(2) And upon the expiration of the said period of six months, it shall be lawful for the Local Government, by an order published in the Calcutta Gazette, to declare such powers

revoked. 39. By such last-mentioned order, and without the neces- Property Vested in sity of any conveyance. all immovable and movable property, all rights of levying and recovering tolls, dues and rates, all stoners to be benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, which at the time transferred benefit of contracts and all rights of suit, and the time transferred benefit of contracts and all rights of suit, and the time transferred benefit of contracts and all rights of suit, and the time transferred benefit of the time may be vested in the Commissioners under this Act, shall be vested in Majorty transferred to and vested in Her Majesty; and the rights of all creditors of the Commissioners under this Act shall continue as against the Secretary of State for India in Council to the extent of the property so transferred to and vested in Her Majesty.

may with-draw and revoke powers of Commis-

PART II.—Of the mode of transacting Business and entering into Contracts.

40. (1) The Commissioners shall meet, for the transaction Meeting of business, ordinarily once in every fortnight.

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(Chapter IV.—Of the General Powers of the Commission.— Parts II.—Of the mode of transacting Business and entering into Contracts.—Secs. 4f-47.)

(2) Such meetings shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

(3) At every meeting of the Commissioners five members

shall constitute a quorum.

Chairman may call special meetings of Commissioners or Committee, call a special meeting of the said Commissioners or Committee, call a special meeting of the said Commissioners or Committee, as the case may be.

Chairman or Vice-Chairman shall attend all vice-Chairman or Vice-Chairman shall attend all

42. (1) The Chairman or Vice-Chairman shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause; and the Chairman, or in his absence, the Vice-Chairman shall preside at every such meeting.

(2) In the absence of both the Chairman and the Vice-Chairman, the Commissioners present at any meeting may choose

one of their number to preside.

43. The President of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from to time and from place to place.

44. (1) Minutes of the proceedings of all meetings of the Commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the President after each meeting.

(2) The said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any

Commissioner without charge.

45. (1) Whenever necessary, the votes of the Commissioners present in meeting shall be taken by the President, and the resolution supported by the greater number of votes shall be deemed to be the resolution of the Commissioners at such meeting.

(2) The President shall have a second or casting vote in all

cases of equality of vôtes:

Provided that, when votes are taken, any Commissioner present may require that the votes given on each side shall be recorded.

48. A copy of the minutes of every meeting of the Commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the Local Government as shall, from time to time, be appointed for that purpose, and shall be pre-

served in the records of the office of such Secretary.

All the powers authorities and duties, in and by this
Act conferred or imposed upon the Commissioners, may be ex
excised and performed by the Chairman or Vice-Chairman, save
the powers authorities and duties by this Act, or by any rule,

may adjourn meetings.

to attend and

meetings of Commis-

sioners. .

President

Minutes of proceedings to be kept open for inspection free of charge.

Votes to be taken by President.

Chairman or Tion-Chairman may emitting cortain power of Commismenters.

Copy of minutes of

meetings to be preserved in of 1800.]

(Chapter IV .- Of the General Powers of the Commission .-•Part II.—Of the mode of transacting Rusiness and entering into Contracts.—Secs. 48-53.)

by-law or order made under the provisions of this Act, conferred or imposed on, or restricted to, the Commissioners in meeting:

Provided that such powers, authorities and duties shall not be exercised by the Chairman or Vice-Chairman in contravention of any order issued or rule passed by the Commissioners in meeting.

48. The Commissioners, in accordance with a resolution Power of passed at a meeting, may enter into contracts with any body corporate registered joint-stock company, or private person, for certain the execution or supply by them or him of any works, labour, contracts, materials, machines, stores or for other matters necessary for carrying into effect the trusts and purposes of this Act:

Provided always that no contract, under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Commissioners, shall be valid without

the assent of the Local Government.

149. The Commissioners in meeting may sanction works Power of Comand enter into contracts for their execution:

Provided that no new work the estimated cost of which sanction exceeds two thousand rupees shall be commenced until a plan make and estimate have been approved by the Commissioners in contracts for their execumeeting.

¹50. Notwithstanding anything contained in section 49, the Vice-Chairman may direct the execution of any work the cost of to the cost of which does not exceed one thousand rupees, and may enter into tion of works. contracts for the execution of such works.

51. (1) No new work, the estimated cost of which exceeds Certain new fifty thousand rupees, shall be commenced by the Commissioners, nor shall any contract be entered into by them in respect of any such work, until the plan and estimate shall have been submitted to, and approved by, the Local Government.

(2) In case the estimated cost of any such new work shall exceed two lakhs of rupees, the Local Government shall not sanction the same until such plan and estimate shall have been approved by the Governor General in Council.

52. The Commissioners may in meeting compound or compromise for, or in respect of, any claim or demand made against them, for such sum of money or other compensation as they shall deem sufficient.

53. (1) Every contract and agreement by or on behalf Mode of of the Commissioners which shall exceed the sum of one

meeting to works and

for any ole or demand made against

executing

¹ These sections 49 and 50 were substituted for the original sections by the Calcutta Port (Amendment) Act, 1912 (Ren. Act 1 of 1912), s. 2, in Vol. III of this Code.

8 As to the extension of a. 58 to bonds or other instruments giving security for import duty or for due exportation, see s. 122B, post, p 1051

|Ben. Act |

(Chapter 1V.—Of the General Powers of the Commission.— Part II.—Of the mode of transacting Business and entering into Contracts.—Part I.I.—Of the Property of the Commissioners.—Secs. 54-56.)

thousand rupees shall be in writing and signed by the Chairman or Vice-Chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners.

(2) No contract nor agreement not executed as in this section

is provided shall be binding on the Commissioners.

54. No officer or servant of the Commissioners shall be in anywise concerned or interested in any contract or work made with or executed for the Commissioners;

and, if any such officer or servant be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the Commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person with full costs of suit:

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any registered or incorpopated company which may enter into any contracts with, or execute any works for the Commissioners; or of his being interested as a debenture-holder in any loan contracted by the Commissioners.

PART III.—Of the Property of the Commissioners.

Powers of Commissioners as to property within or without limits of port.

have power to acquire and hold immovable or movable property, whether within or without the limits of the port, by conveyance, gift, lease, assignment or sale from the Governor General in Council, or the Local Government, on behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person; and they shall also have power in meeting to lease or sell any immovable or movable property which may have become vested in or been acquired by them:

Provided that no such sale, or other alienation or lease of any immovable property for any estate or interest exceeding the term of ten years, shall be valid unless the sanction of the Local Government to such sale, alienation or lease shall have

been first obtained.

56. It shall not be lawful for the Commissioners to demise, farm, sell or alienate any power which, by or under this Act, may become vested in them of levying tolls, dues, rates, rents or charges, unless the assent of the Local Government to such demise, farm, sale or allenation shall have been first obtained.

Officer or servant not to be concerned or interested in contracts or works of Commissioners

of 1880.]

(Chapter IV.-of the General Powers of the Commission.-Part III.—Of the Property of the Commissioners.—Part IV .- Of the Assessment of the Property of the Commissioners.—Secs. 57-59.)

57. All property vested in, or acquired or held by, and all Property and moneys paid or payable to, the Commissioners, shall be held upon trust for the purposes of this Act and not otherwise. 1

rioners to be held upon trusts for purposes of Act.

58. (1) When any land or building is required for the Acquisition of land or purposes of this Act, the Local Government in its discretion building for may declare that the land or buildings is required for a public purposes of Act. purpose; and may order proceed ngs to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law in force for the acquisition of land for public purposes.

(2) On payment by the Commissioners of the compensation Land or payable under such law, and of the charges reasonably incurred by the Collector in respect of the proceedings thereunder, such commissions of this commission of the compensation of land or building shall vest in them for the purposes of this stoners. Act.

PART IV .- Of the Assessment of the Properly of the Commissioners.

59. For the purposes of municipal assessment, the annual of property value of the property vested in the Commissioners within the municipal limits of Calcutta shall be ascertained in the following way :-

how to be accertained.

(1) The aggregate expenditure incurred in the construction of all docks, wharves, quays, stages, jetties, piers, and other works belonging to the Commissioners; also in the purchase of land; also in the construction of offices, warehouse and other buildings belonging to them within the limits of Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888, shall be determined.

(2) Expenditure incurred in procuring or putting up machinery shall not be included in such aggregate expenditure.

(3) Expenditure incurred from time to time on account of repairs necessary to maintain any works or buildings in good order shall not be included in such aggregate expenditure.

Ben. Act 2 of 1888.

¹ For an exception to this rule, see s. 32A, anse, p. 1038.
2 See now the Land Acquisition Act, 1894 (1 of 1894), printed in General Acts, 1887-97, Ed.
1909, p. 848.
2 Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899
(Ben. Act 8 of 1899), and this reference should now be construed as a reference to a. 8, cl. (7), of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 104,3699), s. 10, in Vol. 11 of this

(Chapter IV.—Of the General Powers of the Commission.— Part IV.—Of the Assessment of the Property of the Commissioners.—Secs. 60-64.)

(4) Expenditure for the purpose of materially adding to, or improving, any work or building shall be included in such

aggregate expenditure.

(5) Five per cent. on the aggregate expenditure determined in the manner hereinbefore provided shall be the annual value of the rateable property of the Commissioners, within the meaning of section 122 of the Calcutta Municipal Consolidation Act, 1888 1

Ben. Act 2 of

Sum paid as consolidated rate on annual value to be nine-tenths of **mount** payable by ordinary owner

60. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value determined as in the last preceding section provided shall be nine-tenths of the amount which would be payable by an ordinary owner occupying his own buildings and lands.

Amount to be paid by four quarterly instalments.

61. Such amount shall be payable in four quarterly instalments due on the first day of April, the 1st day of July, the first day of October and the first day of January for the quarters beginning with those days; and, if not so paid, the Corporation of Calcutta shall have the same remedies for the recovery of each instalment as in the case of other rate-payers.

62. The annual value shall, from time to time, be determined by the Corporation of Calcutta; and sections 130, 131, 133, 135 and 136 of the Calcutta Municipal Consolidation Act,

1888, shall apply to such valuation.

Ben. Act 2 of

Amnual value may be fixed by local Government in certain

Annual value to be deter-mined by Calcutta

Corporation.

63. In the event of the Commissioners being dissatisfied with the order passed on objection by the Chairman or Vice-Chairman of the Corporation of Calcutta, they may, within one month, make a reference to the Local Government; and the Local Government shall thereupon fix the annual value, in accordance with the provisions of section 59; and the decision of the Local Government shall be final and valid for a period of six years.

First valuation

64. The first valuation under the provisions of this Act shall be made when the new dock is opened to traffic; and if the annual value is fixed by the Local Government, in accordance with the provisions of the last preceding section, such valuation shall take effect from the date when the special notice is given under section 133 of the Calcutta Municipal Consolidation Act, 1888.

Ben. Act 2 of 1888.

A Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Sen. Act 3 of 1899), and this reference should now be construed as a reference to a. 151 of the Calcutta Municipal Act, 1899 (Ben. Act 5 of 1899)—see the Bengal General Chanses Act, 1899 (Ben. Act 1 of 1899), a 10, in Vol. III of this Code.

This reference should now be construed as a reference to ss. 156 (and 595), 574 (s. 156 in Table), 159, 160 and 151 of Ben. Act 6 of 1899—see the Bengal General Chanses Act, 1899 (Ben. Act 1 of 1894), a 10, in Vol. III of this Code.

This reference should now be construed as a reference to s. 156 of the Calcutta Municipal Act, 1899 (Sen. Act 5 of 1899) (Sen. Act 1 of 1899), a 10, in Vol. III of this Code.

of 1800.1

(Chapter IV .- Of the General Powers of the Commission .-· Part IV .- Of the Assessment of the Property of the Commissioners .- Secs. 65-66D.)

65. (1) If, during the currency of a valuation made under Calcutta the provisions of this Act, any new building dock, jetty or Corporation other work is constructed, or any new land is acquired by the Commissioners. or any material improvement is made in any of new building, dock, jetty or other work within Calcutta, the acquired Corporation of Calcutta may determine the annual value of Corporation of Calcutta may determine the annual value of current building work or land over forch improvement and such new building, work or land, or of such improvement, and valuation. may add it to the annual value previously ascertained.

(2) The provisions of sections 59 to 63 (both inclusive)

shall apply to such valuation. 66. At the expiration of the first valuation made under Annual value this Act, such valuation, including any alterations made under the last preceding section, may, if so agreed upon by the commissioners and the Corporation of Calcutta, be renewed valuation. for a further period of six years; and may similarly be renew-

ed, from time to time, for periods of six years.

¹ 66A. (1) For the purposes of municipal assessment, in Mode of cases where any land vested in the Commissioners is let out calculating to tenants and any building or structure is erected thereon by of building or such tenants, the annual value of such building or structure, structure, when erected, shall be five per cent. on the estimated present cost of creeting such building or structure, less a reasonable amount to be deducted on account of depreciation, if any.

(2) The buildings and structures in each holding, as recorded in the rent register of the Commissioners, shall be separately

valued and assessed.

¹ **66B.** Such building or structure may be valued annually Building at the discretion of the Corporation of Calcutta, and shall be or structure to be valued. so valued on the application of the owner. When not so valued, the former valuation shall remain in force from year to year until a re-valuation is made.

66C. The sum to be paid to the Corporation of Calcutta Sum to be as the consolidated rate payable on the annual value of paid as such building or structure as determined in accordance tate. with the provisions of the last preceding section shall be the total amount of the rates fixed under section 71 of the Calcutta

Municipal Consolidation Act, 1888.

166D. The Corporation of Calcutta, by a notice in writing, Beturns of the may require the owner of any such building or structure to furnish them with returns or the measurements thereof; and furnished the Corporation of Calcutta or any person authorized by them in that behalf may, at any time between the hour of seven in

¹ Sections 86A to 66N were inserted by the Calcutta Port (Amendment No. 2) Act, 1896 (Ben. Act 6 of 1895), s. 8, in Vol. III of this Code.

2 Ben. Act 2 of 1898 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference absolut now be construed as a reference to s. 124 of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Yol. III of

(Chapter IV.-Of the General Powers of the Commission,-Part IV.—Of the Assessment of the Property of the Com. missioners.-Secs. 66 E-66-I.)

the forenoon and sunset, enter on and inspect, survey and measure such building or structure, after giving to such owner a notice in writing of their intention, not less than twentyfour hours previous to such entry and inspection.

66E. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or

incorrect return,

and whoever hinders, obstructs or prevents the Corporation of Calcutta, or any person appointed by the Corporation of Calcutta as aforesaid, from entering, inspecting surveying or measuring any such building or structure.

shall be liable to a fine not exceeding Rs. 200 for every such

offence.

¹ **66F.** (1) Before valuing any such building or structure in accordance with the provisions of section 66B, the Corporation of Calcutta shall give notice to the Commissioners and the owner that, on or after a date not less than fifteen days from the receipt of such notice by the Commissioners and the owner, such valuation will be made.

(2) If the valuation so made exceeds the previous valuation, the Corporation of Calcutta shall include in the special notice provided for in section 66K (3) full details of the amount

of such valuation.

Objections how made by

Penalty for furnishing false return.

Notice before valuing to be given to the Commis-

ners and

owner.

86G. If the owner of any building or structure is dissatisfied with a valuation made under the provisions of section 66A to section 66F (both inclusive), he shall, within fifteen days after the receipt of the special notice referred to in sections 66F and 66K, deliver at the office of the Corporation of Calcutta a notice in writing stating the grounds of his objection.

¹**66H.** (1) All such objections shall be entered in a register to be maintained for the purpose; and, on receipt of any objection, notice shall be given to the objector of a day and

place when his objection will be investigated.

(9) On the day and place notified, the Chairman or Vice-Chairman of the Corporation shall hear the objection, and such hearing shall be in the presence of the objector, if he shall appear: the Chairman or Vice-Chairman of the Corporation may also for reasonable cause at any time adjourn the investigation.

(3) The order passed on such objection shall be recorded in

the register of objections, together with the date of such order.

(1) The owner of such building or structure if dissatisfied with the order passed on his objection, may appeal to the Court of Small Causes having jurisdiction in the place

aring of objection.

Ser foot-note ! on p. 1081, ante.

(Chapter IV .-- Of the General Powers of the Commission .-Part IV .- Of the Assessment of the Property of the Commissioners.—Secs. 66J-66L.

where such building or structure is situated. Such appeal shall be presented to the Court of Small Causes within thirty days from the date of the order passed under section 66H, and shall be accompanied with an extract from the register of objections containing the order objected to.

(2) No appeal shall be admitted unless an objection has first been taken in accordance with the provisions of section 66G.

166J. The valuation by the Corporation of Calcutta, when Valuation no appeal therefrom is made, as hereinbefore provided, and the cation to be adjudication of any appeal under the last preceding section, final when such appeal is made, shall be final and binding.

166K. (1) The valuation so made by the Corporation of Assessment, Calcutta, subject to such alterations as may, from time to time, book, and thereafter be duly made, shall be entered in a book, to be called special notice. the assessment-book, and to be kept at the office of the Corporation, and in the same form, as far as may be, as the rent register of the Commissioners.

(2) A copy of such book and of all entries therein as modified from time to time, shall be supplied to the Commissioners, and shall be open to inspection between the hours of 11 A.M. and 5 P.M. at the head office of the Commissioners.

(3) A special notice, including an extract from the assessment-book showing the valuation of each building or structure, and stating the time within which an objection shall be lodged, shall, on the completion of the valuation under sections 66A to 66F (both inclusive), be given by the Corporation to the owner of such building or structure.

(4) The assessment calculated on the said valuation shall, subject to such alterations as aforesaid, be deemed to be the amount payable during the whole period for which the valuation is in force; and this period shall be calculated from the commencement of the quarter next succeeding that in which any alterations as aforesaid shall have been made; and until such date, the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired.

(1) The Corporation of Calcutta may, after giving Am notice to the Commissioners and the owner of such building or book. structure in the manner provided in section 66D, at any time amend the assessment-book, by inserting therein-

(a) the name of any person whose name ought to be so inserted: or

(b) the description of any building or structure herein before mentioned liable to any such rate; or

(Chapter IV.—Of the General Powers of the Commission Part IV.-Of the Assessment of the Property of the Commissioners.—Sec. 66M, 66N\$

- (c) the valuation, when such building or structure has not already been valued.
- (2) The Corporation of Calcutta may, without notice, strike out the name of any person or the description of any building or structure not liable to the rate, or may reduce the amount of the valuation.

(3) All such changes shall be notified to the Commissioners and to the owner of the building or structure in the manner provided in section 66K; and the provisions of sections 66G, 66H, 66I and 66J shall, so far as may be practicable, apply.

66M. (1) The Commissioners shall, during the first month of each succeeding quarter, pay to the Corporation of Calcutta the consolidated rate so assessed for the previous quarter for such portion of the previous quarter as the Commissioners' land was occapied by each tenant and the liability for rent incurred:

Provided that, unless notice of the termination of tenancy* during a quarter, has been given by the Commissioners to the Corporation of Calcutta within one month of such termination, the Commissioners shall be liable for the whole consolidated rate assessed in respect of such quarter.

(2) Before paying the consolidated rate assessed to the Corporation of Calcutta, the Commissioners shall deduct and

retain a sum equal to one-eighth of such rate.

(3) For the recovery of any such sum, the Corporation of Calcutta shall have all such and the same remedies, powers, rights and authorities as they possess under the Calcutta Municipal Consolidation Act, 1888.

Ben. Act 2 of of 1888.

1 68N. (1) The Commissioners may recover from the owner of any such building or structure the whole of the rate so assessed, as hereinbefore stated, by the Corporation of Calbutta, in respect of any such building or structure.

(2) They may further recover from the tenants of the land assessed under sections 59 to 65 (both inclusive) an amount not exceeding one-half of the whole of the consolidated rate so assessed by the Corporation of Calcutta, in respect of such portions of the land as shall have been classed to such

(3) All sums so due shall be recovered and collected by the Commissioners, together with the rent payable to them by such tenants or owners in respect of such land or any such building or structure.

1 See foot-note 1 on p. 1051, onte.

8 Ben. Act 2 of 1953 has been repealed and re-enacted by the Calcutta Municipal A:
m Act 3 of 1869), and this reference should now 50 construed as a reference to the latter
the Bengel General Clauses Stot, 1898 (Ren. Act 1 of 1896), d. 18, in Vol. III of Usis Choice.

to Corpora

of 1880.1

(Chapter IV .- Of the General Powers of the Commission .-Part IV .- Of the Assessment of the Property of the Commissioners.—Part V.—Of the Estimates of Income. Expenditure and Audit.—Secs. 67-69.)

(4) For the purpose of recovering such sums, the Commissioners shall have the same remedies, powers, rights and authorities as if such rates were rent recoverable by them.

67. (1) The Corporation of Calcutta, on being satisfied Power of Calcutta that any road or thoroughfare vested in the Commissioners is Corporation not less than forty feet in width, and has been duly levelled, to declare paved, metalled, flagged, channelled and sewered, shall, at the thorough wested in request of the Commissioners, declare such road or thoroughfare to be a "public street" as defined by the Calcutta Municipal Consolidation Act, 1888 ; and thereupon the same shall street. become a public street and be from time to time lighted, cleansed, watered and repaired by the Corporation of Calcutta.

(2) It shall not be competent to the Corporation of Cal- Corporation cutta to discontinue or stop up any such road or thoroughtate, without the previous consent of the Commissioners; and the road or thoroughfare so discontinued or stopped shall vest in the Commissioners, and not in the without consent of Colonta.

control of any road or thoroughfare which is open to the public, or of the road of any dock, wharf or jetty, call upon the Corporation ration of Calcutta, to light, cleanse, and, if necessary, water ration of Calcutta, to light, cleanse, and, if necessary, water as such road; and thenceforward the Corporation of Calcutta shall light, cleanse, and, if necessary, water such road:

Provided that such road shall remain vested in the Commissioners, and shall not be stopped or discontinued, or temporarily closed, except by the Commissioners or with their consent.

Part, V.-Of the Estimates of Income, Expenditure and

69. (1) The Vice-Chairman shall, at a special meeting to Esta be held in the month of February in each year, lay before the Commissioners an estimate of the income and of the expenditure of the Commissioners for the year commencing on the first day of April then next ensuing, in such detail and form as the Local Government shall, from time to time, direct.

(2) Such estimate shall be completed and printed, and a copy the state of the completed and printed, and a copy the state of the control of t ten clear days prior to the meeting before which the estimate is to be laid.

Act 2 of 1888 has been repealed and re-enacted by the Calcusta Municipal Act, 1888, of 1899), and this reference should now be construed as a reference to s. 3, cl. (37) of the set the Bengal General Clause Act, 1899 (Ben. Set 1 of 1888), s. 16sts Vol. III of

(Chapter IV .- Of the General Powers of the Commission .-Part V.—Of the Estimates of Income, Expenditure and Audit.—Secs. 70-76.)

Commis sioners in meeting to consider and estimate.

Power of Local Government to disallo w estimate and return it for amendment.

Estimate to be re-submitted to Local Government after amendment.

Commissioners may cause supplementary estimate to be prepared.

Supplemen estimate to be submitted to Local Government. Adherence to

Government.

70. The Commissioners in meeting shall consider the estimate as submitted to them, and shall sanction the same either unaltered or subject to such alterations as they shall think fit.

71. (1) The estimate as sanctioned by the Commissioners shall before the beginning of the year for which the estimate is made, be submitted to the Local Government, who may, if it thinks fit, at any time within three months after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment.

(2) The Commissioners shall, if the estimate is so returned, forthwith proceed to amend the same; and shall re-submit the estimate so amended to the Local Government.

72. (1) The Commissioners may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them.

(2) Every such supplementary estimate shall be considered and sanctioned by the Commissioners in meeting, and submitted to the Local Government in the same manner as if it were an original annual estimate.

173. Save in cases of pressing emergency, no sum chargeable against income and exceeding five thousand rupees shall be expended, by or on behalf of the Commissioners, unless it be covered by an estimate sanctioned under this Part and finally approved by the Local Government and in force at the time.

74. If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Vice-Chairman to the Local Government, together with an explanation of the way in which it is proposed by the Commissioners to cover such extraexpenditure.

76. No officer or servant, as defined in section 30, may be maintained by the Commissioners, unless his salary has been provided in an estimate at the time in force.

.76. (I) The accounts of the receipts and expenditure under his Act shall once in every year be audited, examined and laid beiore the Local Government.

(2) Within fourteen days after the andit and examination shall have been completed, the auditor shall report upon the socounts audited and examined, and shall deliver such report

"Mis section 75 was substituted for the original section by the Calentta P. S. (Sen. 4st 1 of 1912), a. 8, in Vol. 231 of this Code.

(Chapter IV.—Of the General Powers of the Commission.— . Part IV .- Of the Estimates of Income, Expenditure and Audit.—Part VI.—Of Landing-places and Bathing-ghals. -Secs. 77-82.)

to the Commissioners in meeting, who shall cause the same to be deposited in the office of the Commissioners and to be published in the Calcutta Gazette and in some one or more of the daily newspapers published in Calcutta.

77. The audit shall be made by such public department, or Local Governby such anditors as shall, from time to time, be appointed by ment to sp-

the Local Government.

78. (1) For the purposes of any audit and examination of Auditors may accounts under this Act, the auditors may, by summons in require production of writing, require the production before them of all books, deeds, books, etc. for audit of contracts, vouchers, and all other documents and papers which accounts. they may deem necessary,

and may require any persons holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declara-

tion with respect to the same.

(2) If any such person neglect or refuse so to do, or prof Penalty. duce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees.

79. All auditors, not being a public department acting Remuneration under this Act, shall in respect of each audit, be paid by the Commissioners such remuneration as the Local Government being a public

shall, from time to time, determine.

80. A copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners, and thereat be open during office hours to the inspection of any person on payment of a fee of one rupee on each occasion of been inspection, for seven days before the audit and examination; is and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment.

PART V1.—Of Landing-places and Bathing-ghats.

81. The Commissioners in meeting shall provide a sufficient number of public landing-places', from and upon which in the public shall be permitted to embark and to land free of charge.

82. It shall be lawful for the Commissioners in meeting, reif they consider it necessary for the purposes of this Act. to occupy or remove any bathing-ghat for landing-place' within

¹ For lists of landing-places provided under so. 51 and 52, see the Bengal Local Statutory Enland and Orders, 1912, Vol. 1, Pt. VI.

For lists of hathing-places provided under s. 62, see the Bengal Local Statutory Ended under s. 62, see the Ben

(Chapter IV.—Of the General Powers of the Commission.— Part VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings. - Secs. 83-85.)

the port; and thereafter to prohibit the public from resorting

to or using the same:

Provided that the Commissioners shall reserve, set out, make and provide for the use of the public, such sufficientbathing-ghats within the port as the Local Government may direct.

PART VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.

Wharves, etc. not to be erected by private person without assent of Local Government. Penalty for unlawfully erecting

wharves, etc.

83. It shall not be lawful for any person or persons, save the Comissioners, to make, erect or fix below high-water-mark within the port any wharf, quay, stage, jetty, pier, erection or or mooring, unless the assent of the Local Government shall have been first obtained.

84. Any matter or thing which may be so made, erected

or fixed may be removed by the Commissioners;

and the person who shall have so made, erected or fixed any such matter-or thing shall be liable on conviction to a fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the same shall have been given to him;

and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter

or thing:

Provided that this section shall not apply to moorings laid

down or to be laid down by the Conservator of the Port.

Power to remove wharf etc., if erected without limit of port.

85. In case any wharf, quay, stage, jetty, pier, erection or mooring may have been, or shall hereafter be, made, erected or fixed below high-water-mark without the limits for the time being of the port, and thereafter the limits of the port shall be extended so as to include the place on which such wharf, quay, stage, jetty, pier, erection or mooring shall have been made, erected or fixed,

it shall be lawful for the Commissioners, with the sanction of the Local Government in writing, to remove, fill up or destroy such wharf, quay, stage, jetty, pier, erection or mooring:

Provided that any person who may have lawfully made, erected or fixed such wharf, quay, stage, jetty, pier, erection or mooring, or who may have acquired a prescriptive right thereto by possession of sixty years or upwards, his representatives or assigns, shall be entitled to institute a civil suit for

h For lists of hathlen-places provided under a. 82, see the Bengal Local Statutory Rales and less, 1913, Vgl. I, Pt. VI.

(Chapter IV.—Of the General Powers of the Commission.—Part . VII .- Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.—Secs. 86-89.)

the award of compensation to him for the injury caused by the removal, filling up, or destruction hereinbefore mentioned.

36. Whenever any wharves, quays, stages, jetties, piers, commission erections or moorings have, under the last preceding section, been removed, filled up or destroyed, the Commissioners shall for use make or provide for the use of the public such sufficient and convenient wharves, quays, stages, jetties, piers, erections or moorings, in the place of those that may be removed, filled up, or destroyed, as the Local Government may direct.

87. When the Local Government shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty, or pier, crected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such

the Commissioners shall set apart, maintain and Secure on such wharf, quay, stage, jetty or pier, such portion thereof, or place therein, or adjoining thereto, for the pe of the officers of Customs, as the Local Government shall in that behalf approve or appoint.

88. Notwithstanding that any wharf, quay, stage, jetty or Tolla, etc., in pier, or portion thereof, shall, under the provisions of the last respect of wharves, etc. pier, or portion thereof, shall, under the production of the officers of spatial preceding section, have been set apart for the use of the officers of Chatoms all talls, dues, rates, rents or charges payable in officers to be of Customs, all tolls, dues, rates, rents or charges payable in of respect thereof, or for the use thereof, or for the storage of respect thereof. goods thereupon, shall be paid and payable to the Commissioners, or to such person or persons as they may appoint to receive the same.

89. (1) In case any damage or mischief shall be done to Magiatrate to any dock, wharf, quay, stage, jetty, pier or works constructed maters of or acquired by the Commissioners under the provision of this respect to Act, by any vessel, through the negligence of any person damage cans. having the guidance or command thereof, or of any of the to

mariners or persons employed therein,

it shall be lawful for any Magistrate, having jurisdiction in the place where such damage or mischief is alleged to have been committed, on the application of the Commissioners, to issue a summons to the master of, or agent for, such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

to provide wharves.

¹ See the Sea Customs Act, 1878 (8 of 1878), in General Acts, 1888-78, Ed. 1909, p. 488. ...

Den Air

(Chapter IV.—Of the General Powers of the Commission.— Part VIII.—Of the Landing and Shipment of Goods.— Secs. 90, 91.)

Magistrate to issue warrant of distress if demage to wharves, etc., caused by negligence. (2) If, at the time appointed in the summons, and whether the person summoned shall appear or not, the Magistrate finds that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees,

it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of, and attending the execution of, the distress and the pecuniary amount of damage as aforesaid:

and such amount shall be paid to the Commissioners out of the proceeds of distress.

PART VIII.—Of the Landing and Shipment of Goods.

Commissioners to provide for landing, etc., goods from sea-going reasels. **90.** The Commissioners shall, when thereunto required by the Local Government, provide and keep and maintain sufficient servants and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels brought to the docks, wharves, quays, stages, jetties or piers erected by them;

and shall, by their servants [or agents], land and ship all goods from and upon any such vessel so coming to such dock, wharf, quay, stage, jetty or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessel is by reason of the breach or non-observance of any law or regulation, not entitled to have her goods shipped or discharged:

Provided that, in the case of cargoes of petroleum, it shall be lawful for the Commissioners not only to land the petroleum from all sea-going vessels, but also by their servants or agents to put the petroleum out of the hold and overside such vessels:]

Provided '[further] that the Commissioners shall not be bound to land, ship or move any single article or package exceeding thirty tons of twenty hundred-weight in weight, except at such special charge as may be agreed on in respect of such article or rackage.

Commissioners to guant receipts for goods landed by them. article or package.

11. (1) Whenever any goods shall be landed by the Commissioners from any vessel under the powers by this Act conferred on them, they shall if thereunte required, give to the person in charge of such vessel a receipt in the form or to the

¹ The worth, "as admin" in a 30 were inserted by the Calcutta Port (Amendment Eq. 1), April 1896 (Hent Act 4 of 1895), a. 6, in Vol. III of this Code.

This provise was inserted in a. 90 by the Calcutta Fort (Amendment He. 5) Act, 1895 (Hen. Act, 4 of 1895), a. 5, in Vol. III of this Code.

This provise was inserted in a. 90 by the Calcutta Fort (Amendment He. 5) Act, 1895 (Hen. 5) Act, 1895 (Hen. Act, 4 of 1895), a. 5, in Vol. III of this Code.

(Chapter IV-Of General Powers of the Commission-Part VIII -Of the Landing and Shipment of Goods .- Secs. 92-95.) .

effect prescribed in the '[Second] Schedule; and 'may, in any such receipt, include all goods landed from such vessel during one day.

(2) No person to whom such receipt shall have been so Liability for given, nor the master nor owner of the vessel from which the goods to const goods in respect of which such receipt shall be given may have when one been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

92. When any dock, wharf, quay, stage, jetty or pier erected Commisunder the provisions of this Act shall have been made and completed, together with sufficient warehouses, sheds. cranes are ready for and moorings for landing and shipment, or for landing or for landing good from completed. shipment of goods from and upon sea-going vessels,

it shall be lawful for the Commissioners, with the sanction of the Local Government, by a notification published in three consecutive numbers of the Calcutta Gazette, to declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing and shipment, or for landing or for shipment of

goods from and upon sea-going vessels.

93. From and after such notification and publication, it Commis shall be lawful for the Commissioners to require the Conser-order many vator of the Port, or other persons exercising the rights, powers to load or and authorities of the Conservator of the Port from time to unload at and authorities of the Council at such dock, wharf, quay, stage, when time, when there shall be room at such dock, wharf, accounted when the second of the council and the state of the council account of the jetty or pier, to order to come alongside of such dock, wharf, accommods jetty or pier, to order to come alongside of such dock, wharf, accommods jetty or pier, to order to come alongside of such dock, wharf, quay, stage, jetty or pier for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to discharge goods, or which, being about to take in goods, shall not have commenced to take in

94. If after such order of the Conservator of the Port or realty to landing or other person aforesaid, the owner or master of any such landing or other person aforesaid, the owner or master of any such landing or other person aforesaid, the owner or master of any such landing or other person aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid, the owner or master of any such landing or other persons aforesaid and the owner or other persons aforesaid and the owne at such dock, wharf, quay, stage, jetty or pier to which such of order. vessel shall have been so ordered,

the owner thereof, or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship, or attempt to land or ship, any goods in contravention of such order.

95. (1) When a sufficient number of docks, wharves, quays, remote the disease of stages, jetties or piers shall have been erected under this Act for the landing and shipment of goods of all sea-going vessels resorting to the port, it shall be lawful for the Commissioners in meeting, with the sanction of the Local Government, by an

going versels

¹ The word "Becond" in s. 91 (1) was substituted for the word "Third" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 7, in Vol. III of this Code.

8 For power to sutherize the landing or shipments of goods elsewhere, see the provise to s. 96, gost, p. 1042. - For power to summarian and the word, "vessels" by the Repealing and "The word, "vessel," in s. 94, was substituted for the word, "vessel," in s. 94, was substituted for the word, "vessels" by the Repealing and Amending Act, 1908 (1 of 1908), Bch. II—see Vol. I of this Code.

[Bán, Hitt 2

(Chapter IV Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sucs. 96-98.)

order published in three consecutive numbers of the Calcutta Gazette, to direct that, without the express sanction of the Commissioners, no goods shall be landed or shipped from or upon any sea-going vessel within the port save at such docks, wharves, quays, stages, jetties or piers, 1

(2) and, by an order in like manner published, to alter,

vary or revoke any such order.

96. Whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order:

Provided that, notwithstanding anything in this or in sections 92, 93 and 94 contained, it shall be lawful for the Local Government, by a notification in the Calcutta Gazette, from time to time, if it shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship goods or that certain specified goods or classes of goods shall be permitted to be landed or shipped, elsewhere, and at such part of the Port of Calcutta and for such time and on such conditions as it may think fit.

97. (1) When any dock, wharf, quay, stage, jetty or pier for receiving, landing or shipment of goods from vessels (not being sea-going vessels) shall have been made and completed

with all proper appliances in that behalf,

it shall be lawful for the Commissioners in meeting, with the sanction of the Local Government, by an order published in three consecutive numbers of the Calcutta Gazette, to declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipment of goods from vessels (not being sea-going vessels),

and in the same way and with the same sanction to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful, without the express sanction of the Commissioners, to land or ship any goods out of, or into, any vessel (not being a sea-gong vessel) of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier, 1

(2) and, by an order in like manner published, to alter, vary

or revoke any such order.

98. Whenever any order made and published under sections 95 and 97 shall have the effect of rendering it unlawful to land or ship any goods out of, or into, any vessel at any

Commissioners to declare when docks, etc., are ready for landing goods from inland reseals.

Penalty for

shipping goods after

of order.

nit may be sidifuted for word of otopensation

A.As to private wharves, etc., see s. 98 on this page.

Son a flor of orders made under section 97, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Rg. VI.

(Chaoter IV .- Of the General Powers of the Commission .-· Part VIII .- Of the Landing and Shipment of Goods .--Secs. 99-102.)

wharf, quay, stage, jetty or pier lawfully made, erected or fixed by any person for the convenience of private traffic, or to which a prescriptive right may have been acquired by possession of sixty years or upwards,

such person, his representives or assigns, shall be entitled to institute a civil suit for the award of compensation to him for the injury caused by the order hereinbefore mentioned:

Provided that, in awarding such compensation, the Court shall not take into consideration any tolls, dues, rates or charges which the aforesaid person claiming compensation shall be liable to pay for using the wharf, quay, stage, jetty or pier provided by the Commissioners for public use:

Provided also that it shall be lawful for the Commissioners, in lieu of closing any wharf, quay, stage, jetty or pier under either of the said sections, to allow the continued use thereof on payment of such scale of tolls, dues, rates and charges as may be agreed upon between the owners thereof and the

Commissioners.

99. (1) After the publication of the order mentioned be landed in section 97 of this Act, it shall not be lawful for any vessel from inland of such class to land or ship any goods at any place within woodle at docks, etc. the limits so specified except at such dock, wharf, quay, stage, jetty or pier; nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of the ordinary low water-mark, without the consent of the Commissioners.

(2) Any person guilty of any breach of the provisions of Penalty tor this section shall be liable to a fine not execeeding fifty rupees provisions.

for every such breach.

100. If, after the publication of the order mentioned in Powerto section 97 of this Act, any such vessel shall, while within such lying within limits, so anchor, fasten or lie, it shall be lawful for the Commissioners to cause the same to be removed out of the said mark. limits; and it shall be the duty of the Conservator of the Port to aid and assist the Commissioners in so removing such vessel.

The Commissioners may, by notice in writing, order commisthe master, owner or agent of any vessel to remove such vessel 101. from any dock, wharf, quay, stage, jetty, or pier belonging to

the Commissioners.

102. Unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner or agent thereof, it shall be lawful for the Commissioners to charge, in respect of such vessel for the use by such vessel of such dock,

(Chapter IV .- Of the General Powers of the Commission, Part 1X.—Of Levying Tolls and Rates.—Secs. 103-105.).

wharf, quay, stage, jetty or pier, such sum not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, after the expiry of such thirty six hours, during which such vessel shall remain at such dock, wharf, quay, stage, jetty or pier as to the Commissioners shall seem fit.

PART IX.—Of Levying Tolls and Rat

Commis tioners to frame scale
of tolls, etc. roods from es-going ressels.

103. The Commissioners shall frame a scale 1 of tolls, dues, gates and charges for the landing and shipment of goods from and into sea-going vessels at the docks, wharves, quays, stages, jetties and piers belonging to the Commissioners, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods, and for the use of any moorings laid down or acquired by the Commissioners, and for the towage of vessel by the steam-vessels of the Commissioners in the Port.

104. The Commissioners shall also frame a scale of tolls. dues, rates and charges for the landing and shipment of goods into and out of any vessel (not being a sea-going vessel);

*8

Jommistioners to rame scale if tolls, stc., or landing roods into nland

Commisioners to of tolls for me of docks. sto., by

104A. (1) The Commissioners shall also frame scales? of tolls for the use of their docks, wharves, quays, stages, jetties and piers by vessels, whether sea-going or not, leviable when the Commissioners permit goods to be lauded or shipped by persons other than their own officers and servant.

(2) The scales for sea-going vessels and vessels other than sea-going vessels may be either the same or different, as the

Commissioners may think fit.

105. The Commissioners shall also frame a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Commissioners.

¹ For a list of scales framed under section 108, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 1, Ft. VI.
2 For a list of scales framed under sections 104, 104A and 105, see the Bengal Local Statutory Bales and Orders, 1912, Vol. 1, Pt. VI.
2 The morth "and also a scale of tolls for the use of the said docks, wharves, quays, stages, but a see that the said docks, wharves, quays, stages, but a see that the said docks, what the goods to be landed to the said docks, what the goods to be landed to the said told by the Colemns Port Landestee St. 28, 23 Act, 1800 (Ben. Act 4 of 1891.), s. 6, and are contited—see now s. 104A. On this

Successor 1864, was insured by the Calcutta Pert (Amendment St. 1) Act, 1865 (Sm. Act & of 5), s. 7, in Vol. III of high Calcutta Pert (Amendment St. 1) Act, 1865 (Sm. Act & of 5), s. 7, in Vol. III of this Calcutta Port (Amendment 5) Act, 1865 (Sm. Act & of 1865), s. 4, in Vol. III of this Cole.

(Chapter IV .- Of the General Powers of the Commission .-Part IX.—Of Levying Tolls and Rates.—Secs. 105A-108.)

105A. The Commissioner shall also frame a scale of Charges for charges for the carrying of passengers and their personal effects on vessels belonging to or hired by the Commissioners.

and their effects on Commis-sioners'

106. The Commissioners shall also frame a scale of tolls, Commissioners ³ [rates, charges and fees], annual of other, to be paid by the frame scale owners of vessels plying [whether for hire or not, and] of tolle, whether regularly or occasionally within, or partly within and partly without, the limits of the port. "In respect of such vessels and of persons, whether in charge of, or on board, such vessels, and also in respect of the licensing, registration and regulation of such vessels and persons! and regulation of such vessels and persons :

Provided that no such tolls, 3 [rates, charges and fees] shall be chargeable in respect of vessels which are liable to pay port dues under the provisions of Schedule I of the Indian Ports

Act, 1889 7.

() of 1889.

107. (1) Such scales of tolls, dues, rates and charges shall scale of tolls, be adopted by the Commissioners in meeting, and shall be be adopted by the Commissioners in meeting, and shall be published submitted to the Local Government; and after receiving its after approval approval shall be published by the Commissioners in the Government. Calcutta Gazette, and may from time to time, subject to the like approval and publication, be in like manner altered.

e approval and publication, be in the local Government Power of (2) It shall also be competent to the Local Government Fower of the scales framed under sections ment to at any time to cancel any of the scales framed under sections 103 to 106 (both inclusive), or to call upon the Commissioners to modify any portion of such scales; and thereupon the Commissioners in meeting shall modify such scales accord-

108. [The Commissioners may from time to time] charge upon all o [or any portion or description of] goods landed from or shipped into any " [sea-going] vessel lying or

Power of Commisional gene or different

¹ Section 105A was inserted by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905)

¹ Section 105A was inserted by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905) sall or s. 5, in Vol. III of this Code.

5. 5, in Vol. III of this Code.

5. 6, in Vol. III of this Code.

5. 6, in Vol. III of this Code.

6. 6, in Vol. III of this Code.

6. 70 a list of scales framed under sections 105A and 106, sre the Bengal Local Statutory Bules and Orders, 1912, Vol. I, Part VI.

8. The words 'rates, charges and frees "in s. 106 were inserted by the Calcutta Port (Amendment No. 1).

8. The word 'any "in s. 106, was repealed by s. 8 of the Calcutta Port (Amendment No. 1).

8. These words in square brackets in s. 106 were substituted for the words "for hire" by the s. This clause in square brackets in s. 106 was inserted by the Calcutta Port (Amendment No. 1).

8. This clause in square brackets in s. 106 was inserted by the Calcutta Port (Amendment No. 1).

8. This clause in square brackets in s. 106 was inserted by the Indian Ports Act, 1906 (Act 15 of 7 Act 10 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1906 (Act 15 of 7 Act 10 of 1899 has been repealed and re-enacted by the Indian Ports Act, 1906 (Act 15 of 7 Act 10 of 1897) has been repealed and re-enacted by the Indian Ports Act, 1906 (Act 15 of 7 Act 10 of 1897) has been repealed and re-enacted by the Indian Ports Act, 1906 (Ben. Act 4 of 1805) a. 6, in Vol. III of this Code.

8. These words in square brackets in s. 108 were substituted for the original words by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 8 (1), in Vol. III of this Code.

9. These words or any person or description of "in s. 108, were inserted by the Calcutta Port (Amendment No. 1) Act, 1895, (Ben. Act 4 of 1895), s. 9, in Vol. III of this Code.

1 The word "rea-going", in s. 108, was inserted by the Calcutta Port (Amendment Ma. 1) Act, 1805, (Ben. Act 4 of 1895), s. 9, in Vol. III of this Code.

(Cnapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Secs. 109-111;)

being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners,

such [general or differential] tolls, dues, rates and charges, in addition to, or other than, those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of sections 103, [104 A] [and] 107 [and] 107 [as the Commissioners may think fit and expedient]:

⁷ [Provided that the said goods may, for the purpose of this section he classified by weight massurement number and

section, be classified by weight, measurement, number and value, and the tolls, dues, rates and charges leviable may be varied according as the goods are imported or exported goods.]

109. Such [additional general or differential] tolls, dues, rates and charges shall be fixed and adopted in accordance with a resolution passed by the Commissioners at a meeting, and shall be submitted to the Local Government; and if the same shall be approved by it shall be published in the Calcutta Gazette, and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners in meeting, with the sanction of the Local Government; and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.

110. (Power of Local Government to charge tolls, etc., on neglect of Commissioners to do so). Rep. by the Calcutta Port

(Amendment) Act, 1907 (Ben. Act 2 of 1907), 8, 2.

111. (1) For the amount of all tolls, dues, rates and charges duly leviable under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

(2) Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the

goods.

(3) Tolls, dues, rates and charges in respect of goods to be removed from the premises of the Commissioners, or to be

1 The words "general or differential", in a 108, were inserted by the Calcutta Port (Amendment No. 1) Act, 1896 (Bea. Act 4 of 1895), a. 9, in Vol. III of this Code.

8 For charges imposed under ss. 108 and 109, see Bengal Local-Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

8 This reference to s. 104 A was inserted in s. 108 by the Calcutta Port (Amendment No. 1) Act, 1896 (Bea. Act 4 of 1895), a. 9, in Vol. III of this Code.

8 This word "and" was substituted for "to" by the Calcutta Port (Amendment No. 1) Act, 1896 (Bea. Act 4 of 1895), a. 9, in Vol. III of this Code.

8 The words "4both inclusive)", were repealed by the Calcutta Port (Amendment No. 1) Act, 1896 (Bea. Act 4 of 1895), a. 9, and are contided.

8 The words "as the Commissioners may think fit and expedient", in a 108, were substituted the seal and act to the seal income of the year, suffice as nearly as may be for the payment of the seal ames in chil" by the Calcutta Port (Amendment) Act, 1907 (Bea. Act 2 of 1897), a. 5 (2), in Vol. III of this Code.

1 This provise to a 106 was added by the Calcutta Port (Amendment) Act, 1907 (Bea. Act 2 of 1895), a. 9, in Vol. III of this Code.

1 This provise to a 106 was added by the Calcutta Port (Amendment) Act, 1907 (Bea. Act 2 of 1895), a. 9, in Vol. III of this Code.

1 This provise to a 106 was added by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1894), a. 70, in Vol. III of this Code.

Mode of levy and recovery of additional general or differential tolls, etc.

Recovery of tolls in arrear.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.— Part IX.—Of Levying Tolls and Rates.—Secs. 112, 113.)

shipped for export, shall be payable before the goods are removed or shipped.

(4) The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner herinafter 1 provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force:

Provided that nothing in this Act shall affect any power or authority vested in the Chief Officer of Customs under any law

for the time being in force.

2 112. (1) The responsibility of the Commissioners for the Responsibility loss, destruction or deterioration of animals or goods, whether landed for import or received for export or for carriage by railway.

during such time as the same remain in the possession or

under the control of the Commissioners,

shall, subject to the other provisions of this Act, and, in the case of animals or goods received for carriage by railway, subject also to the provisions of the Indian Railways Act, 1890, be that of a bailed under sections 151, 152 and 161 of the Indian Contract Act. 1872, 'omitting the words" in the absence of any special contract" in section 152 of the last-mentioned Act.

(2) With the previous sanction of the Local Government, and under such circumstances and conditions as the Local Government may prescribe, the Commissioners may enter into an agreement relating to animals or goods landed for import or received for export or for carriage by railway, which may impose upon the Commissioners a greater responsibility than that imposed by sub-section (1).

(3) Every such agreement must be in writing and must be

signed by, or on behalf of, the Commissioners.

113. (1) The Commissioners shall, immediately upon the commissioners is landing by them of any goods, take charge thereof, and store take there such as are liable to suffer from exposure in any shed or warehouse belonging to the Commissioners.

(2) If any owner, without any default on the part of the Goods not Commissioners, fail to remove any goods [other than those stored licenses stored in warehouses licensed under section 16' of the Sea Customs Act, 1878,] from the premises of the Commissioners

sioners for

Within three

of 1878.

9 of 1890.

9 of 1872.

¹ Hee s. 118, post, page 1048.

This section was substituted for the original sec. 112 by the Calcutta Port (Amendment).

Act, 1886 (Ben. Act 2 of 1898), s. 2, in Vol. III of this Code.

Printed in General Acts, 1837-97, Ed. 1909, p. 232.

4 Printel in General Acts, 1836-78, Ed. 1909, p. 278.

The words "by them" in s. 118 were inserted by the Calcutta Port (Amendment) Act, 1896.

Ben. Act 2 of 1894), s. 2, in Vol. III of this Code.

These words in square brackets, in s. 118 (2), were inserted by the Calcutta Port (Amendment) Ed. 1) Act, 1896 (Ben. Act 4 of 1895), s. 11, in Vol. III of this Code.

Trintal in General Acts, 1868-78, Ed. 1909, p. 632.

(Chapter IV.-Of the General Powers of the Commission. Part IX.—Of Levying Tolls and Rates.—Secs. 114-117.

within [three] clear working days from the time of landing, such goods shall remain on the premises at the sole risk and

expense of the owner.

Commis-sioners to give notice to consignee, etc., of cessa-tion of liability;

114. (1) Whenever the owner of any goods ? [other than those stored in warehouses licensed under section 16° of the Sea Customs Act, 1878,] fails to remove the same within the time specified in the last preceding section, the Commissioners shall give notice to the consignee or owner of such goods, if his address be known, by letter sent by post to such address or left thereat, that all liability which the Commissioner's may have hitherto incurred in respect of such goods has ceased;

siso to publish (2) and shall also publish in one or more daily newspapers notice of the expiry of such liability; and shall specify therein expiry of such liability. the numbers, marks and descriptions of such goods, so far as

the same may appear.

Liability of consignee or owner with respect to oods stored n public houses.

115. In case the said goods '[other than those stored in warehouses licensed under section 16° of the Sea Customs Act, 8 of 1878 1878,] shall be removed to the public warehouses, then the consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and to the power of sale hereinafter given.

Lien for freight preserved after landing of goods, if notice of lien

116. (1) If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners shall give to the Commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the shipowner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien (if any) for such charges as they were subject to before the landing thereof.

(2) Such goods shall be retained either in the warehouses and sheds of the Commissioners or in warehouses licensed under section 16° of the Sea Customs Act. 1878, or with the 8 of 1878. consent of the Chief Officer of Customs, in the public ware-houses at the risk and expense of the owners of the goods, until

the lien is discharged as hereinafter mentioned.

117. Upon the production to the officer of the Commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight, from the

i The word "ahres" in a. 113 (2) was substituted for the word "two" by the Calcutta Port (Amendment) Act, 1886 (Ben. Act 2 1886), a. 3, in Vol. III of this Code.

30. These words in square brackets, in s. 114 (I), were inserted by the Calcutta Port (Amendment 30. I) Act, 1996 (Ben. Act 4 of 1885), a. 13, in Vol. III of this Code.

9 Printed in General Acts, 1886-18, Ed., 1886, p. 653.

4 These words in square brackets, in a. 115, were inserted by the Calcutta Port (Amendment 30. I) Act, 1886 (Ben. Act 4 of 1882), a. 38, in Vol. III of this Code.

5 See a. 118, seet, page 1868.

6 This rection was substituted for the former section 116 by the Calcutta Port (Amendment 30. 8) Act, 1895 (Ben. Act 6 of 1898), a. 5, in Vol. III of this Code.

(Chapter IV.—Of the General Powers of the Commission.— Part IX.—Of Levying Tolls and Rates.—Secs. 118-120.)

person by or on whose behalf such notice shall have been given, it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien:

Provided they shall have used reasonable care in respect to

the authenticity of such document.

118. If the tolls, dues, rates and charges payable to the Com-Power of Commismissioners in respect of any goods under this Act are not paid, sioners to sell or if the lien of the shipowner for freight, where such notice spoods by

as aforesaid has been given, is not discharged,

the Commissioners may, and, in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or, if the goods are of a perishable nature, at such earlier period, being not less than twenty-four hours after the landing of the goods as they shall think fit,

sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter' directed to be paid out of the produce of such sale.

119. (1) Before making such sale, ten days' notice of the Notice to be same shall be given by publication thereof in the Calcutta given before Gazette.

unless the goods are of so perishable a nature as, in the opinion of the officer of the Commissioners in that behalf, to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

(2) If the address of the owner of the goods has been stated Notice to be on the manifest of the goods or in any of the documents which owner by have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the known. goods by letter delivered at such address or sent by the post;

but the title of a bond fide purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

120. (1) In every case of any such sale as aforesaid, the applied as follows:—

Applied as follows:—

ale. moneys received from the sale shall be applied as follows:-

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 111 from the priority of the liens of the Commissioners for tolls, rates and dues; and

(e) in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

(Chapter IV.—Of the General Powers of the Commission.-Part IX.—Of Levying Tolls and Rates.—Secs. 121-122A.)

sale-proceeds to whom to be

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his applying for the same:

Provided that such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Commissioners; and in case such application shall not be so made, nor , reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Power of Collector of Customs to distrain vessels for non-payment of tolls.

121. If the master of any vessel in respect of which any tolls, dues, rates, penalties or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand.

it shall be lawful for the Commissioners to apply to the Collector of Customs of the Port of Calcutta,

and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid;

and in case any part of the said tolls, dues, rates, penalties or charges, or of the cost of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold,

and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges, and costs, including the costs of sale remaining unpaid; rendering the surplus (if any) to the

master of such vessel on demand.

not to be grantou until tolls,

122. If the Commissioners shall give to the officer of Government, whose duty it shall be to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable under this Act or any by-laws, rules or orders made in pursuance thereof, against such vessel, or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel,

such officer shall not grant such port clearance until the

amount so chargeable shall have been paid.

122A. (1) All warehouses of the Port Commissioners shall be deemed to be private warehouses and capable of being licensed as such under section 16° of the Sea Customs Act, 1878; s of H and all the provisions of that Act relating to licensed private warehouses shall be applicable to all such warehouses.

¹ Section 132A was inserted by the Celcutta Port (Amendment Ro. 1) Act, 1895 (Ben. Act 4 2 1895), a. 15, in Vol. III of this Code.

7 Printed in General Acts, 1808-78, Ed. 1809, p. 623.

of 1880.]

(Chapter 1 V .- Of the General Powers of the Commission .-. Part IX.-Of Levying Tolls and Rates.-Chapter V.-Of the Powers of the Commissioners as Conservators of the Port.—Secs. 122-124B).

of 1878.

of 1878.

(2) The warrants delivered under section 961 of the Sea Customs Act, 1878, shall, in the case of the said warehouses, be signed by the Commissioners or some person duly authorized by them in that behalf.

*1226: It shall be lawful for the Commissioners to give, o in the manner provided by section 53, general security, by in the manner provided by section 53, general security, by give security bond or otherwise, for payment of the import duty due on bonder good goods stored in bonded warehouses, or for the due exportation of such goods. When such security shall have been given by the Commissioners, no further security shall be required by the Chief Customs Authority from any other person to the same effect.

*122C. The Commissioners shall not be liable to compen- Commissate the owners of petroleum stored in any warehouse licensed store gools under section 16³ of the Sea Customs Act, 1878, for any loss by in bonded fire, however arising, or for any deterioration or damage or diminution in quantity by leakage or otherwise, unless such deterioration, damage or diminution has been caused by the negligence of the Commissioners or their servants.

CHAPTER V.

OF THE POWERS OF THE COMMISSIONERS AS CONSERVATORS OF THE PORT.

123. (1) Any port dues, fees or other charges received by Port du the Commissioners as Conservators of the Port shall be deemed to be a portion of their income, and shall be included in their Conservat annual estimates and accounts.

(2) All the powers, authorities and restrictions contained Fowers, in this Act in respect of the works by this Act authorized, Commisshall apply to the works which may be executed by the stoners and the content of th Commissioners as such Conservators, to the sanction thereof, the estimates therefor, and the expenditure thereunder.

124. Whenever the Local Government shall, under the Port due provisions of the Indian Ports Act 1889 issue an order which by come shall specify the amount of charge to which the Commissioners shall be liable in respect of the port dues and fees to be

by Commi

¹ Printed in General Acts, 1868-78, Ed. 1909, p. 844.
2 Sections 192B and 122C were inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 15, in Vol. II of this Code.
3 Printen in General Acts, 1868-78, Ed. 1809, p. 852.
4 Act 10 of 1889 has been repealed and re-emacted by the Indian Ports Act, 1908 (15 of 1898), and this reference should now be constrained as a reference to the latter Act (in General Acts, 1896, p. 819, Ed. 1806, p. 519)—see the General Clauses Act, 1897 (10 of 1892), a. 8, in General Acts, 1875-97, Ed. 1909, p. 579.

(Chapter VI.-Of Wrecks.-Chapter VII.-Of Bg-Laws.-Secs. 125, 126.)

received by them as Conservators of the Port, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council, and to be due on the day on which such order shall take effect.

CHAPTER VI.

OF WRECKS.

Commisioners o exercise

125. The Commissioners shall, if and when appointed under the provisions of section 73 of the Indian Merchant Shipping Act, 1880, to be Receivers of Wreck within the limits 7 of 1880. of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act.

CHAPTER VII.

OF BY-LAWS.

ower to

- * 126. (1) It shall be lawful for the Commissioners in meeting, from time to time, to make such by-laws consistant with this Act and with the Indian Ports Act, 1889, as they may 10 of 1889 think necessary, for any of the following purposes (that is to
 - (a) for regulating, declaring and defining the docks, wharves, quays. stages, jetties and piers on and from which goods shall be landed from, and shipped in, vessels within the port;

(b) for regulating the manner in which, and the conditions under which, the loading and discharging of all vessels within the port shall be carried out;

(c) for the safe and convenient use of such docks, wharves. quays, stages, jetties and piers, and of landing-places, warehouses, warehouses licensed under section 16 of the Sea Customs Act, 1878, sheds and other works a of 1878. in and adjoining the same;

¹ Printed in General Acts, 1879-86, Ed. 1908, p. 64.

2 This section was substituted for the former section 126 by the Calcutta Port (Amendment No. 2) Act, 1886 (Ben. Act 6 of 1895), s. 6, in Vol. III of this Code.

2 For a list of by-law made under section 125, see the Bengal Local Statutory Bules and Orders, 1912, Vol. I. Pt. VI.

4 Act, 16 of 1896 has been recoaled and re-enseted by the Indian Ports Act, 1806 (16 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1904-06, 151, p. 1904), pages 1819 —est the General Chauses Act, 1887 (10 of 1887), s. 8, in General Acts, 1887-87, Ed. 1908, pages 277.

2 Trimted(\$n\$ General Acts, 1888-76, Ed. 1908, p. 232).

(Chapter VII.-Of By-Laws.-Chapter VIII.-Of the Constitution and control of Port Police Force.—Secs. 127-129.)

(d) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(e) for the mode of payment of tolls, dues, rates and charges

levied under this Act:

- (f) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or
- (g) for regulating the hours during which European seamen and apprentices shipped on the same footing as European scamen may be employed on boardships lying in the port, or on docks, wharves, quays, stages, jetties and piers, in work necessitating exposure to the sun;
- (h) for the guidance of persons employed by them under this Act; and
- (i) for otherwise carrying out the purposes of this Act.

(2) The Commissioners in meeting may, from time to time, repeal, alter, or add to, any by-law made under this section.

(3) No by-law, repeal or alteration of any by-law shall have effect until the same is confirmed by the Local Government.

(4) No by-law, and no repeal or alteration of, or addition to. any by-law, shall be confirmed until the same has been published in three consecutive numbers of the Calcutta Gazette.

127. In making any by-law under the last preceding sec- penalty for infringeneral tion, the Commissioners in meeting may direct that a breach of of by laws. it shall be punishable with fine which may extend to five hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to two hundred rupees for every day after the first during which the breach continues.

128 The Commissioners shall cause the said by-laws, and the tables of tolls, dues, rates and charges leviable, to be printed in the English and Bengali languages and characters, and to be finited and the said by-laws, and the said by-laws and the said by-laws and the said by-laws, and the said by-laws and the said by-laws and the said by-laws, and the said by-laws a hung up at the several docks, wharves, quays and jetties, docks, etc. and other convenient places on the premises of the Commissioners.

CHAPTER VIII.

OF THE CONSTITUTION AND CONTROL OF PORT POLICE FORCE.

129. A Police Force shall be formally enrolled for the Co Port of Calcutta, to be styled the "Port Police Force," and



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(Chapter VIII.—Of the Constitution and Control of Port Police Force.—Chapter IX.—Of the Port Police Budget.—Secs. 130-134.)

shall consist of a Special Superintendent, to be called the "Superintendent of Port Police," and such number of officers and men as the Local Government shall, from time to time, direct.

Police to be r control ommiser of 130. The Port Police Force shall be under the direction and control of the Commissioner of Police for Calcutta, and shall form a portion of the Police Force of Calcutta, and shall be subject to the provisions of the Calcutta Police Act, 1866. ¹

Ben. Act 4 of 1866.

erintendof Port ce to act er control ommiser of ice. 131. The Superintendent of Port Police shall, in all matters connected with the prevention of crime, and the detection, apprehension and detection of offenders in order to their being brought before a Magistrate, and the preservation of the public peace, act under the direct control of the Commissioner of Police for Calcutta.

erintendof Port ice to mit daily orts of nees.

132. The Superintendent of Port Police shall submit daily reports to the Commissioner of all offences (if any) committed contrary to the provisions or this Act, or of the Indian Ports Act, 1889 2 or of any port rules and by-laws in force prescribed in accordance therewith, and of all accidents occuring on the river within the limits of the Port.

10 of 1889.

CHAPTER IX.

OF THE PORT POLICE BUDGET.

mmissioner Police to mit budget estimate of rt Police ice to nmisners. 133. (1) The Commissioner of Police, on or before the first day of January in each year, shall transmit to the Commissioners a budget or estimate of the expenses of the Port Police Force for the financial year commencing on the first day of April then next ensuing.

(2) The Police Budget shall show the various heads of

expenditure of the Police Force.

134. (1) The Chairman shall lay every such budget before the Commissioners at the first meeting of the Commissioners held after such budget has been transferred.

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(2) The Commissioners shall thereupon forward such budget to the Local Government, with such remarks as to them may seem at; and it shall be in the discretion of the Local

¹ Printed case, page 28. ² Act 10 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1908 (15 of 1892) and this reference should now by construct as a reference to the latter Act (in General Acts, 1894-09, 284, 1908, p. 519)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts 1897-09, 284, 1998, p. 579.

of 1890.1

(Chapter X.—Miscellaneous.—Secs. 135-137.) -

Government to pass, or to reject, or to modify, all or any sums entered in the same.

(3) The amount of the estimates passed, or such proportion Amount of estimates of the same as shall be fixed upon by the Local Government, passed to be shall be paid to such officer as the Local Government may paid from time to time direct, by the Commissioners.

CHAPTER X.

MISCELLANEOUS.

135. The Commissioners shall not be answerable for any Indomnity to Commisact or default of any Conservator or Harbour Master of the sloners Port, or of any Deputy or Assistant of the said officers, or of against default of any person acting under the authority or directions of any officers, etc. such officer or assistant, heretofore or hereafter done within the limits of the Port;

nor for any damage or injury heretofore or hereafter sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other thing belonging the Commissioners within the Port which may be used by such vessel:

Provided that nothing in this section shall protect the said Commissioners from an action in respect of any act done by, or under the express order or sanction of the said Commis-

sjoners. 136. If any person employed under this Act, not being P a public servant within the meaning of section 21 of the illes

Indian Penal Code, 1

shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners or with any public servant or with

the Government as such, he shall be liable to the same punishment as is provided for in that behalf by the Indian Penal Code in the case of

public servants.

137. Any person who wilfully deposits, or permits his receity to servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or any animal matter, or any broken glass,

15 of 1860.

5 of 1860.

(Charter X.-Miscellaneous.-Secs. 138-142.)

earthenware or rubbish, in or upon any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners, or in or upon any part of the river bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.

urisdiction Case of mmitted alontta

138. (1) Evry charge of an offence against any provision of this Act, or of any rule, order or by-law made under the provisions of this Act, alleged to have been committed within Calcutta, may be instituted before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons;

and if such person do not appear, the Magistrate may, upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

(2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure, 1882, 1 from sections 242 10 of 1882.

to 248 (both inclusive), shall be followed.

risdiction in ses of fences comitted out Calcutta.

139. Every charge of an offence against the provisions of this Act, or of any rule, order or by-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, *according to the provisions of the Code of Criminal Procedure. 10 of 1882. 1882.

olice-officers give mediate formation certain

LV arrest rsons mmitting

140. It shall be the duty of all police-officers, whether members of the Port Police Force or not, to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889, or of any by-laws or rules having the force of law 10 of 1889 prescribed in accordance therewith.

plice officer 141. (1) Any such police-officer may arrest any person committing in his view any offence against any of the said provisions, if the name and address of such unknown.

(2) Such person may be detained at the station-house until his name and address shall be correctly ascertained.

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142. No suit shall be brought against any person for anything done, or purporting or professing to be done, in pursuance of this Act, after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

¹ Act 10 of 1883 has been repealed and re-enacted by the Code of Oriminal Brocedura, 268, of 1894), and this reference should now taken to be unde to sections 242 to 246 (both insinsive the hater Action 258 of 1895), and this reference should now be taken to be made to the Code of Oriminal Procedure, 2606 of 1893, see a. S (2) thereof, in General Acts, 1898-1908, Ed. 1909, p. 28.

Sant 28 of 1895 has been repeabled and re-enacted by the Indian Procedure, 2606 of 260, and this reference should now be construed as a reference to the latter Act (in General Acts, 1897, Ed. 1909, p. 519)—see the General Clauses Act, 1897, 10 of 1897, a. 6, in General Acts, 1887-97

of 1890.]

(First and Second Schedules.)

FIRST SCHEDULE.

(See section 2.)

Acts of the Lieutenant-Governor of Bengal in Council.

		- 1	Subject.	Extent of repeal.		
		1				
Act V of 1870	•••	•••	To appoint Commissioners for making improvements in the Port of Calcutia.	So much as	has not	be · p
Aut 1 V of 1879	•••	•••	To provide for the levy of fees upon certain passen-			
Act 17 of 1880	•••		ger boats and steam-ferries. For amending the Calentia Port Improvement Act, 1870.	So much as repealed.	has not	beer
Act of 1881	•••	•••	To amond the Calcutta Port Improvement Act	The whole.		
Act 11 of 1883		•••	m	Ditto.		
Act 11 of 1886	•••	•••		Ditto.		
Act III of 1887	•••	•••	1 m	Ditto.		

SECOND SCHEDULE.

FORM OF DEBENTURE.

Rep. by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 10.

1SECOND SCHEDULE.

(See section 91.)

FORM OF RECEIPT FOR GOODS.

By the Commissioner of the Port of Calcutta.

LANDED during the day of from the by the Commissioners of the Port of Calcutta the noted in the margin (if there he any apparent initury this is to be stated), contents and state of the contents unknown.

For the Commissioners of the Port of Calcutta,

A. B

CALCUTTA;

day of 18

¹ This Schedule was originally numbered "Third Schedule," and have now been re-numbered "Second Schedule" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act. 2 of 1907), s. 10, in Yol. III of this Code.

B. S. Press-30-11-1914-875J-1,500-T. W. L. & others.